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THE

NON-REGULATION LAW OF THE PUNJAB,

BEING A

COLLECTION OF RULES, LAWS, OR REGULATIONS,

MADE FOR THE PROVINCES UNDER THE PUNJAB ADMINISTRATION,

WHICH ACQUIRED THE FORCE OF LAW

UNDER THE INDIAN COUNCILS' ACT, 1861;

TO WHICH ARE ADDED

LISTS OF THE REGULATIONS OF THE GOVERNMENT

OF FORT WILLIAM IN BENGAL,

WHOLLY OR PARTIALLY APPLICABLE TO THE PUNJAB.

BY

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PREFACE.

Early in November last, on my return from a furlough to Europe, my services were placed by the Punjab Government at the disposal of the Chief Court of the Province for the purpose of preparing the present collection.

Its nature and scope will be explained by the following extract from a letter from the Secretary to the Government of India, in the Legislative Department, to the Punjab Government, which contains the instructions under which it has been prepared :—

"I am directed to request that His Honor the Lieutenant Governor will cause some competent officer,

First.—To collect all Rules, Laws, and Regulations, made prior to the 1st August 1861, by the Governor General in his executive capacity, or by a Lieutenant Governor, for or in respect of, the Punjab ;

Secondly.—To note, in the case of each such enactment, whether it is now in force, or whether it has been repealed or modified by any Act of the Governor General in Council, (mentioning it) ;

Thirdly.—To note what Regulations or parts of the Regulations were considered to be in force in that Province on the 1st August 1861, (distinguishing the Regulations which were explicitly extended, from those of which the 'spirit' only was prescribed for guidance) ; to note also whether they are now in force, and if not, by what enactment, or how otherwise they have ceased to apply; and

Fourthly.—To superintend the printing, in a single volume, of the enactments and notes so collected and made."

I was subsequently authorized to exclude from the collection rules which had been superseded before the 1st August 1861, or which, being of a temporary character, had ceased to be in operation before that date, and also rules which had since ceased to be in force in consequence of the passing of the Indian Penal Code, and of the extension to the Punjab of the Codes of Criminal and Civil Procedure; being required however to give lists of the rules which it was considered unnecessary to print at length upon any of these grounds. I was at the same time empowered to omit from the lists of Regulations which were considered to be in force on the 1st August 1861, all Regulations or parts of Regulations included in the Schedules annexed to the Repealing Acts, X of 1861 and XVII of 1862. The collection has thus been reduced within a much smaller compass than would otherwise have been possible, without, it is hoped, any diminution of its utility.

It is necessary to add a few words as to the principles by which I have been guided in determining how far the instructions issued from time to time by the Government of India to the local authorities, or by the Lieutenant Governor of the Punjab to officers subordinate to him, were to be regarded as Rules, Laws, or Regulations, which, under Section 25 of the Indian Councils' Act, *(Statute 24 and 25 Vict., Cap. 67)* would have the same force as if they had been made for the Punjab by the Governor General in Council at a meeting for making Laws and Regulations in conformity with the provisions of the Acts of Parliament upon which the legislative powers of the Governor General in Council depend. Where such instructions related exclusively to matters which the Executive Government has always been considered competent to regulate, without obtaining the aid of the legislature, there was of course no difficulty, and I have not hesitated to omit them, as not being of a legislative character. But where they related to matters which, in the Regulation Provinces, it has usually been considered necessary to provide for by legislative enactment, I have not felt myself at liberty to exclude them, even where the matter appeared to fall more properly within the province of the executive administration than of the legislature. In many cases the instructions consist partly of rules of the latter description, and partly of rules of the former description. In such cases I have in most instances thought it advisable to print the whole of the rules contained in the letter conveying the instructions, especially if they were not readily accessible elsewhere, both because it is often difficult to draw the line with any degree of precision, and because the rules would be more easily understood in their complete form than if a few were separated from their context. Wherever I have thought myself justified in omitting any, I have invariably, I believe, stated the subject of the omitted passage in a note. At the same time, I have not, as a general rule, printed long letters laying down rules upon particular subjects at full length, because a great part of the letter is generally taken up with an explanation of the objects in view, and the reasons for making the rules.

Probably some of the rules I have printed may be considered to relate to matters which fall wholly within the province of the Executive Government, but where this is the case, it will, I think, be found, that similar subjects are treated of in the Regulations, though, if they were brought before the legislature now, it would most likely, instead of dealing with them directly, empower the Local Government, or the Governor General in Council, as the case might be, to make rules regarding them, and to alter such rules from time to time. The terms of Section 25 of the Indian Councils' Act are so wide and general, that it is extremely difficult to decide whether rules of this character have acquired the force of law under it, or whether they could now be modified or set aside by an administrative order; and where any doubt can reasonably be entertained as to the precise force of

a particular rule, it would be unsafe to exclude it from a collection like the present.

There have been some orders, also, which laid down rules of a temporary character, the force of which was derived from the orders having been acts of State, and not from any assumption of legislative authority on the part of the Governor General, or of the Lieutenant Governor. Such were most of the orders issued in 1857 and 1858, after the capture of Dehli, with reference to the treatment of the inhabitants, and to the confiscation of the property of persons believed to have been concerned in the rebellion. Such, too, were many of the orders issued from time to time as to the course to be adopted with respect to frontier tribes who had made predatory incursions into our territory. Where rules owed their force to orders of this character, I have omitted them without hesitation, on the ground that they could derive no additional force from the Indian Councils' Act, 1861.

Rules founded upon the nature of our relations with Dependent States, and applicable exclusively to them and to their subjects, I have also thought myself justified in omitting, as being of a quasi-international character. Such, for instance, are the rules relating to the responsibility of Native States for the safety of mails passing through their territory, and for robberies within their limits from travellers who are subjects of the British Government or of other Native States.

I have found no case in which the "spirit" of the Regulations was expressly prescribed for guidance, with the exception of the Regulation relating to the administration of the Dehli territory, which directed that the authorities there should conform to the "principles and spirit of the Regulations" then in force. But many orders will be found in this collection, the effect of which is that the general provisions of the Regulations upon particular subjects should be observed, while the Courts were not to consider themselves bound by every detail contained in those Regulations, or to apply them strictly where, in a province like the Punjab, this might be found inconvenient in practice. These orders are often much more definite than if they had referred to "the principles and spirit of the Regulations."

There are also many indications that for a long series of years the notion was generally current that no enactments, whenever passed into law, or however general in their terms, were applicable to the Punjab, except so far as it was found convenient in practice to act upon them. Thus, in a letter from the Secretary to the Chief Commissioner, circulated with Judicial Commissioner's Circular No. 33, dated 25th April 1854, the provisions of Act XXXII of 1852 are declared not "to be at all suited to the Punjab," and, in lieu of those provisions, other rules are laid down in regard to the prosecution of Tahsíldars for corruption or embezzlement. So the Financial Commissioner in his Circular No.

71, dated 2nd December 1854, directed that "the spirit of" Act XXVI of 1854 should be "carried out as far as may be practicable, in respect to all minors, who may, from time to time, become wards of the British Government." So again, in 1857, the Governor General in Council declared "the general provisions of the Tolls Act, VIII of 1851," applicable to the Punjab, while he fixed rates of toll not quite in accordance with the Act.

I have not considered it necessary to add any lists of Acts applicable in whole or in part to this province, such Acts having been collected in a work published last year by Mr. T. W. Smyth, of the Bengal Civil Service, Registrar of the Chief Court, to which is appended a chronological list of all the Acts passed from 1834 to the end of 1869, showing the extent of their operation. I have, however, printed the orders extending any of these Acts to the Punjab, where these orders appear to have acquired the force of law under Section 25 of the Indian Councils' Act, 1861.

The arrangement which I have adopted has been, as far as possible, according to subjects, the rules relating to each subject being arranged in chronological order, and the subjects being grouped under Chapters, with some introductory remarks which are intended to explain the principles upon which they have been brought together, and to obviate the necessity of repeating particular comments in the notes which follow several separate sets of rules. This arrangement has been greatly facilitated by the fact that the same rules are either legally in force, or are in practice acted upon, throughout the provinces under the administration of the Lieutenant Governor of the Punjab, with a few exceptions in which the local character of the rules will in general be at once apparent; while, in the cases where it is not apparent from the rules themselves, it can easily be pointed out in a note. The original orders regulating the administration of the different provinces at present under the Punjab Government are accordingly placed in the first Chapter, along with some rules on the subject of judicial powers, which belong no more to the Criminal than they do to the Civil Chapter, and which therefore can more properly be brought under one of a general character. This is followed by Chapters on the Criminal Law and Police,—on the Civil Law and Procedure,—on the Revenue Administration,—on Miscellaneous Rules,—and on the Regulations enacted by the legislature, which were in force on the 1st August 1861.

The short title given to this volume "the Non-Regulation Law of the Punjab," is perhaps not strictly accurate, but may be justified by the sanction given by usage to the application of the term Non-Regulation to particular provinces, of which those under the Punjab Government are the most important, and by the difficulty of selecting any other short title which would be more appropriate, while the full title clearly explains the actual contents of the book.

There has been considerable difficulty in making the collection so complete as it now is, owing to the records of the provinces brought under British rule before 1849 being accessible at Lahore only to a very limited extent, and in the case of the Cis-Satlaj States, to those records being left, during the winter months, at Kasaoli, while the Commissioner and the whole of his English office are in the plains. At the same time I ought to state that every reasonable facility has been afforded me for obtaining access to registers of correspondence and copies of documents by every officer to whom I have had occasion to refer, either at Lahore or elsewhere, and a very cursory examination of the book will show that this necessarily involved a considerable amount of trouble being given to some Government offices.

In the absence of any Registers or Indices of the correspondence between Government and the Resident or Agent to the Governor General at Delhi, or the Political Agents at Ambalah, Ludhianah, or Simlah, I have been unable to include rules made before 1846, by the Governor General or the Lieutenant Governor North-Western Provinces, for the Cis-Satlaj or Hill territories;* but from my own experience I am in a position to state that, if any such rules were made, they have either fallen into disuse, or been superseded by subsequent rules relating to the same subjects, and that there is no reason to believe that any of them still remain in force.

In the case of the Delhi and Bhatti territories, again, I have had no clue to guide me to any rules made before 1858, when they came under the Punjab Administration, but this is of the less importance, as since that date those territories have been treated as subject, in all respects, to the laws of the Punjab.

As regards the Trans-Satlaj States, the Commissioner of which corresponded direct with the Government of India throughout 1847 and for the first three months of 1848, little information is available for that period, no Indices or Registers of Correspondence having been kept, and letters received from Government not having been recorded in such a way as to make reference to them easy, though letters despatched from the Commissioner's office were copied into letter books. The only security against my having omitted important rules made during this period, is to be found in the fact that the administration of the Cis and Trans-Satlaj States having been conducted upon the same principles, rules

* One rule, applicable to the latter, is to be found at p. 28 of Mr. Whalley's "Law of the Extra-Regulation Tracts, North-West Provinces," Appendix K. G., from which it appears that a Resolution of the Governor General in Council, dated 19th October 1816, prohibiting the exaction of forced labor for the service of travellers, Civil or Military, in "the hill countries under the authority or protection of the British Government", was communicated to Sir David Ochterlony for his information and guidance, and that of the officers under his authority in the hills. Sir David Ochterlony was at the time Political Agent at Ludhianah with an Assistant at Sabathu in charge of the Simlah Hills.

prescribed for general observance in the one were usually communicated for the guidance of the officers employed in the other.

The following letters, copies of which have just reached me, would have been included in the list of omissions appended to Chapter II, had I been able to learn their nature at an earlier period.

Government of India No. 1395, dated 6th July 1847, to Commissioner and Superintendent Cis-Satlaj States, transmitting, for observance in the Cis-Satlaj States, copy of a Circular issued by Commissioner Trans-Satlaj States to his district officers, prescribing forms of Criminal Registers.—*Superseded by Criminal Procedure Code.*

Government of India No. 1822, dated 17th July 1847, to same, transmitting, for circulation to District Officers, rules framed by Mr. Blunt, late Sessions Judge, Trans-Satlaj States, relating to procedure in Sessions Cases.—*Superseded by Criminal Procedure Code.*

To the list of omissions appended to Chapter III may be added, Government of India No. 2594, dated 25th October 1847, to same, forwarding printed Rules for the Administration of Civil Justice in the Cis and Trans-Satlaj States.—*See page* 124.

I annex a list of letters which I have not been able to refer to, some of which may contain rules which ought to be included in this collection.

Government of India No. 818, dated 10th July 1857, extending the powers of the Chief Commissioner.—*See page* 112.

Punjab Government Circular in 1861, (Proceedings dated 20th April) on the subject of prevention of obstructions to rivers.

Judicial Commissioner's Proceeding No. 42, dated 11th May 1861, on the subject of the introduction at the station of Dalhousie of the Marrí rules.

D. G. BARKLEY.

LAHORE,

28th March 1871.

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ERRATA.

PAGE 6, line 7, for 'on' *read* 'no.'
„ 9, *note*, last line but one, for '53' *read* '1853.'
„ 51, line 15, for 'Lahoul' *read* Lahaul.'
„ 86, 10th para. marginal note, *read* '1834' for '1 34.'
„ 89, 12th line from the bottom, for 'setforth' *read* 'set forth.'
„ 152, last line but one, of 2nd *note*, for 'regard' *read* 'regards.'
„ 212, 2nd marginal note, for 'revenue' *read* 'revenue-free.'
„ 233, line 3, for 'Çantonment' *read* 'Cantonments.'
„ 2nd marginal note for 'Agreage' *read* 'Acreage.'
„ 239, title at head of the page, for 'Revenue free-holdings' *read* 'Revenue-free holdings,' and similarly in title to pages 241 and 243.
„ 251, line 4, for 'Canals. The' *read* 'Canals, the'
„ insert comma after 'prepared.'
„ 252, line 5, *dele* comma.
„ 253, line 20 from bottom, for 'possile' *read* 'possible.'
„ line 14 from bottom, for comma, substitute semicolon and dash.
„ 272, marginal note, for 'Settlements,' *read* 'Settlement.'
„ 278, after line 7 should come 'XVI.—COLLECTION OF LAND REVENUE, and the Appendices from page 282 to 341, now numbered XVI to XXXVIII should be numbered instead XVII to XXXIX.
„ 315, last line, for 'uncertainly' *read* 'uncertainty.'
„ 349, 7th line from the bottom, for 'DOAD' *read* 'DOAB.'
„ 363, 13th line from the bottom for 'Kangrar ules' *read* 'Kangra rules.'
„ 416, Column 4, line 3 from bottom, for 'administration' *read* 'administration of.'
„ 417, Column 3, line 2, for 'suit' *read* 'suits.'

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THE

NON-REGULATION LAW OF THE PUNJAB.

CHAPTER I.

FUNDAMENTAL RULES REGULATING THE ADMINISTRATION OF JUSTICE IN THE PUNJAB.

The first step towards ascertaining the laws actually in force in the provinces under the administration of the Punjab Government, in the absence of any complete code of those laws, is to enquire how far, on the conquest of the country by the British power, the conquering Government secured to the people their own laws, and how far it set them aside or substituted others.

How various were the dates at which different portions of the territories now administered by the Punjab Government were acquired, will be best understood by a reference to the map at the beginning of the 2nd volume of Aitchison's Treaties. For the present purpose, however, it will be sufficient to group them as follows:—

(I).—The Punjab west of the Biás, annexed at the close of the second Sikh war, 29th March 1849.

(II).—The Jalandhar Doab and the Hill District of Kangra, ceded by Lahore, at the close of the first Sikh war, 9th March 1846.

(III).—The Cis-Satlaj possessions of Maharajah Dalíp Singh of Lahore, annexed by the proclamation of the Governor General dated 13th December 1845.

(IV).—The Cis-Satlaj and Hill territories acquired by lapse or exchange from the commencement of British protection to the present time, or over

which jurisdiction was assumed owing to the failure of their Chiefs to render the aid required by the proclamation of 13th December 1845, and Mamdot, forfeited for mis-government in 1855.

(V).—The Dehli territory west of the Jamna transferred to the Punjab Government in 1858 from that of the North Western Provinces, by which it was administered as a Non-Regulation Province under the provisions of Regulation V of 1832. Also the portions of the Begam Samru's jagír west of the Jamna, placed under the same law by Act XVII of 1836, and the jagírs of Jhajar, Bahádurgarh, Ballabgarh, and Farukhnagar, confiscated for rebellion in 1857 and 1858.

(VI).—The Bhatti territory, or district of Sirsa, separated from the Dehli territory and placed under a distinct system of law by Act VI of 1846, and transferred from the North Western Provinces Government to that of the Punjab at the same time with the Dehli territory.

I.—The Punjab west of the Biás.

The formal declaration of the annexation of the Punjab to British India was effected in a proclamation of the Governor General, dated the 29th March 1849, and published in the *Agra Gazette* Extraordinary dated 4th April 1849, and in the *Calcutta Gazette* Extraordinary, dated 9th April 1849. This was of course an act of State rather than a rule or order of a legislative character; still the following paragraphs are of importance, as being the first declaration of the intentions of the conqueror as to the future Government of the country.

"The few Chiefs who have not engaged in hostilities against the British shall retain their property and their rank.

"The British Government will leave to all the people, whether Mussulman, Hindoo, or Sikh, the free exercise of their own religions; but it will not permit any man to interfere with others in the observance of such forms and customs as their respective religions may either enjoin or permit.

"The jagírs and all the property of Sirdars or others, who have been in arms against the British, shall be confiscated to the State.

"The defences of every fortified place in the Punjab, which is not occupied by British troops, shall be totally destroyed; and effectual measures shall be taken to deprive the people of the means of renewing either tumult or war."

On the 31st March 1849, the Governor General, in constituting the Board of Administration for the affairs of the Punjab, issued more precise instructions as to the principles on which the Government of the country should be conducted, in his Secretary's despatch No. 418, addressed to the Board. In this letter, the most important paragraphs of which are appended, he stated his desire "to uphold native institutions and practices, as far as they are consistent with the distribution of justice to all classes" (para. 6); he expressed his confidence that "village communities would be maintained in all their integrity," and observed that "in this and other respects, such as the local laws which regulate the tracing of criminals and the responsibility of landholders for their pursuit and apprehension, the popular institutions will be improved and consolidated by our measures," (para. 7); he prescribed rules for the administration of Civil Justice (para. 10), and of the Criminal Law, (para. 13), and for the Revenue administration (para. 12); he defined the powers of the Board and of the officers subordinate to it; and he laid down rules for the investigation of claims to hold lands free of demand for Government Revenue, and to pensions from the State, and for the adjustment of village boundaries. The effect of these orders was to establish a system of Criminal Law founded partly upon the Regulations, though these were not expressly introduced, and partly upon native institutions and practices, as stated in the 6th and 7th paras.; to place the Civil Laws of the Muhamadan, Hindu and Sikh communities upon the same footing as in the Regulation Provinces, and to establish a comparatively simple form of Civil Procedure, and to introduce a Revenue system resembling that of the North Western Provinces, the village system being considered to prevail generally in the Punjab as it did in the North Western Provinces.

No express provision was made as to the law to be administered to European British subjects and others not subject to a personal system of law; but as regards European British subjects at least, there can be no doubt that they were considered to carry their own law with them to the same extent as in the Regulation Provinces,* and to be subject to the same

* *Vide* opinion of Sir Charles Pratt and the Honorable Charles Yorke, Attorney and Solicitor General, about A. D. 1757—1761.—p. 1 of Forsyth's Cases and Opinions in Constitutional Law; and, as to Calcutta, the cases of *Mayor of Lyons* v. *East India Company*, 1 Moore's Ind. Appeals, p. 175; *Freeman* v. *Fairlie*, *ib.* 309, and *Advocate General of Bengal* v. *Ramé Sarnamdiye Dasi*, *ib.* p. 317.

jurisdiction as other persons, except in so far as they were by the Regulations made subject to a different jurisdiction in criminal matters. As regard others not governed by a personal law, the only explanation of the omission seems to be that this class had not become of any importance at the time. If Mr. Justice Markby's exposition of Regulation VII of 1832, Section 9, in *the Secretary of State for India* v. *the Administrator General* (1 Bengal L. R., O. C., 87) be correct, that Section would not apply to them; but his reasoning, careful and elaborate as it is, fails to satisfy me that the English law has become the territorial law of the Punjab, or indeed of British India generally. The Governor General certainly indicated no intention of introducing it into the Punjab, and I am disposed to attach more importance than Mr. Justice Markby does to the provision in Section 17 of Regulation II, 1803, that in cases "for which no specific rule may exist, the judges are to act according to justice, equity, and good conscience"; and to the corresponding provisions for the Superior Courts in Regulation IV, 1803, Section 34, and Regulation V, 1803, Section 31. The language of Section 9 of Regulation VII of 1832, even if the operation of that Section be restricted to cases where one at least of the parties is a Hindu or Muhamadan, also seems to show that the legislature regarded "the principles of justice, equity, and good conscience," as supplying the place of substantive law, where that was deficient; and the care taken in that Section to prevent English or any foreign law being introduced under cover of those principles appears to run counter to Mr. Justice Markby's theory. If the English law is the territorial law of British India, applicable to Hindus and Muhamadans, where their own laws have not been reserved to them, why should it be excluded in cases in which the legislature restrict the operation of their own laws? And the notion that deficiencies in express legislation are to be filled up from the rule of justice, equity, and good conscience, is certainly older than 1832. It is clearly embodied in Mr. Mountstuart Elphinstone's Bombay Code, of 1827,* the words of which seem sufficient to negative the existence of a territorial law in the Bombay Presidency, unless so far as such a law has been provided by express enactment, or is to be found in the usage of the country where the suit arose. It will be shown hereafter

* *Vide* the passage cited at p. 54 of Mr. Herbert Cowell's Tagore Law Lectures for 1870. It is also cited at p. clxxiv of the introduction to Morley's Digest as Bombay Regulation IV of 1827, Section 26.

that by the Rules for the Administration of Civil Justice, prescribed by para. 10 of the Government letter No. 418 dated 31st March 1849, the Civil Courts were enjoined, in all cases not specially provided for, "to conform, as nearly as the circumstances of the case will permit, to the provisions of the Regulations in force" in the North Western Provinces. I am, therefore, of opinion, that the law by which they are to be guided in cases "for which no specific rule may exist," is to be sought for in the principles of "justice, equity, and good conscience," and not in any supposed territorial law.

Some modifications were effected in the judicial powers conferred on the Board and on Appellate Courts subordinate to it in Government No. 418, dated 31st March 1849, by Government letters No. 1753, dated 20th September 1849, No. 1968, dated 11th October 1849, and No. 473, dated 12th February 1851, and by the latter of these the Board was authorized to confer judicial powers upon Tahsildars.

Afterwards, by Resolution of the Governor General in Council in the Foreign Department, forwarded to the Board by letter No. 657, dated 4th February 1853, from the Secretary to the Government of India, the Board was abolished, its powers and functions being vested in the Chief Commissioner of the Punjab, subordinate to whom a Judicial Commissioner and a Financial Commissioner were appointed, and the powers and duties of these officers were determined.

At a later date, the judicial powers of Assistants and Extra Assistants in the Punjab were defined in the Examination Rules which received the sanction of the Governor General in Council in letter No. 1514, dated 12th April 1854, to the Chief Commissioner of the Punjab.

From the 1st January 1859, Sir John Lawrence, who had till then filled the post of Chief Commissioner, was appointed the first Lieutenant Governor of the Punjab and its Dependencies, by Notifications Nos. 1 and 2, dated 1st January 1859, issued, in the Foreign Department, by the Right Hon'ble the Viceroy and Governor General of India. The date is important, as it determines the time from which rules, orders, and regulations, made by the Local Government, have the force of law under Section 25 of the Indian Councils' Act, 1861.

The powers of all Courts of Justice in the Punjab and its dependencies now depend upon the Code of Criminal Procedure,

Act XIX of 1865, *(the Punjab Courts' Act,)* and Act IV of 1866, *(the Punjab Chief Court Act,)* and upon subsequent Acts of the Legislature, and, perhaps, in a few cases, upon orders conferring jurisdiction upon particular individuals, which have acquired the force of law under the Indian Councils' Act. The provisions of the orders from 1849 to 1854, which have been noticed above, so far as they relate to judicial powers, have on longer any effect.

II.—The Jalandhar Doab and Kangra.

This province formed part of the territories ceded to the British Government by the Treaty of Lahore, dated the 9th March 1846. It was formed by Government into a Commissionership, the Division being designated "the Trans-Satlaj States." This Division, with that of the Cis-Satlaj States, was placed under the Agent to the Governor General, North Western Frontier, who was posted at Lahore, and the administration of the Cis and Trans-Satlaj territories was provided for by a Resolution of the Governor General dated 16th March 1846. By a subsequent Resolution, however, dated 26th December 1846, the Governor General placed the Commissioners of those Divisions "directly under the orders of his Lordship in the Foreign Department, and defined the powers of the Commissioners and the officers subordinate to them in the Departments of Civil and Criminal Justice, and of Revenue Administration." From March 1848, the Agent to the Governor General, North Western Frontier, was again vested with the powers of Chief Commissioner over both Divisions; and, on the constitution of the Board of Administration for the Affairs of the Punjab, on the 31st March 1849, the Commissioners Cis and Trans-Satlaj States became subordinate to the Board. From that time these Divisions have continued under the Punjab administration. From 1846 to 1849 however, rules on various subjects were made under the sanction of the Governor General, applicable to the Cis and Trans-Satlaj States, the most important of which were the Rules for the Administration of Civil Justice, introduced by Government order of the 25th October 1847. Other rules, such as those relating to the track law, to the entertainment of charges of offences committed before the date of annexation, and to the demarcation of village boundaries, will be noticed in their proper places. The remarks already made with reference to the law in force in or introduced into the Punjab at

the time of annexation apply equally to the Jalandhar Doab, and need not be repeated.

III.—The Cis-Satlaj territories brought under British rule from the 13th December 1845.

These territories were annexed under the terms of the proclamation of the Governor General made at the camp of Lashkari Khan-ki-sarai on the 13th December 1845.* The portion of the proclamation which relates to them, is as follows :—

"The Governor General hereby declares the possessions of Maharajah Dalip Singh on the left, or British, bank of the Satlaj, confiscated and annexed to the British territories.

"The Governor General will respect the existing rights of all jagirdars, zamindars and tenants, in the said possessions, who, by the course they now pursue, evince their fidelity to the British Government.

"The Governor General hereby calls upon all the Chiefs and Sirdars in the protected territories to co-operate cordially with the British Government for the punishment of the common enemy, and for the maintenance of order in these States. Those of the Chiefs who show alacrity and fidelity in the discharge of this duty, which they owe to the protecting power, will find their interests promoted thereby; and those who take a contrary course will be treated as enemies to the British Government, and will be punished accordingly."

Arrangements for the administration of the territory thus annexed, with the districts already under British rule in the Cis-Satlaj and in the Simlah hills, were made by Resolution of the Governor General dated 3rd January 1846; but on the close of the war, the orders then given were modified by the Resolution dated 16th March 1846, and the subsequent Resolution dated 26th December 1846, providing for the administration of the Cis and Trans-Satlaj States, which have been already noticed in connection with the Jalandhar Doab. These territories became part of the Cis-Satlaj Division then constituted.

IV.—The Cis-Satlaj and Hill territories acquired by lapse or exchange at various periods, or over which jurisdiction was assumed in consequence of the misconduct of their rulers.

The Cis-Satlaj States of the plains were taken under the protection of the British Government in 1808-9, and after the treaty with Ranjít Singh of the 25th April 1809, an ittilanamah was issued by Sir David Ochterlony to the Chiefs of those States, formally announcing that Government had extended to them its protection, and defining their future rela-

* Pp. 256—259 of the 2nd volume of Aitchison's Treaties.

tions with the protecting State. Some of the protected States were at the time under the government of the childless widows of their former Chiefs, and on their death their possessions were brought under the direct management of the British authorities; and the same course was adopted from time to time on the death of Chiefs without heirs sufficiently nearly related to them to be considered entitled to succeed to the Chiefship. In this way a considerable extent of country has at various times been brought under the British Government, the lapses being reported to Government for confirmation, and the territory being brought under the administration of the Political Agent. In few cases,* however, were any instructions issued by Government as to the principles upon which the administration should be conducted, or the laws to be applied. The Non-Regulation system appears to have been naturally introduced as being the system prevailing in other territories under the administration of the Resident at Dehli, to whom, for a long time, the Political Agent at Ambalah was subordinate, and, having once been introduced, the same system was applied on the occurrence of further lapses.

In 1814, the Gurkhas, who had rapidly extended their power over the whole of the Simlah hills, commenced to encroach upon plain districts, which formed part of the protected country, and this, among other causes, led to the Gurkha war of 1814—1816. In 1815, on the capture by Sir David Ochterlony of the strong hill-fort of Malaun, the Gurkhas retired beyond the Jamna, and they shortly after evacuated Garhwal. The territories of the Rajahs and Chiefs of the Simlah hills were then restored to them, with the exception of Sabathu and some other military posts retained by the British, and of portions of Sirmúr, Keonthal, and Baghát, made over to the Maharajah of Pattialah and other Chiefs as a reward for services rendered in the war, and their States were taken under British protection. The small parganas of Kotkhai and Kotgarh, and the hill station of Kasaoli, have since been acquired by lapse; Dagshai and Kalka by purchase; and the hill of Simlah, partly by purchase and partly by exchange for other territory,

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Revenue Settlements effected by Mr. (afterwards Sir) George Clerk, and other Political officers, according to the system which was followed in the North Western Provinces, were reported for confirmation to the Lieutenant Governor North Western Provinces, or to the Governor General, and were sanctioned. There were, I believe, a few other orders of no present importance.

and these, with Sabathu, are the only portions of the Simlah hills under direct British Government.*

By Act XV of 1836, the administration of Civil Justice in Sabathu and the territories annexed thereto was provided for, the political officers being placed under the control and superintendence of the Sadr Dewani Adalat at Allahabad in the trial of Civil cases, subject to any instructions which might be issued by the Governor General in Council. This Act was repealed, except as to cases then pending before the Sadr Dewani Adalat, after the Board of Administration for the Affairs of the Punjab was established, by Act XXXII of 1850, on the ground that "the reasons for which Sabathu and the other territories annexed thereto were placed under the control, in Civil cases, of the Court of Sadr Dewani Adalat" had ceased to exist. Rules had been made under it in 1842 for the Simlah Court, but for these the Rules for the Administration of Civil Justice in the Cis and Trans-Satlaj States, drawn up in 1847, were afterwards substituted by Government letter No. 1577, dated 1st July 1848, to the Chief Commissioner Cis and Trans-Satlaj States, so that there were no separate rules for Simlah in existence at the time when Act XXXII of 1850 was passed.†

After the Governor General's proclamation of 13th December 1845, some of the Cis-Satlaj Chiefs having joined the Sikh Army or otherwise manifested their hostility, their territories were confiscated, and brought under British administration; and from the 1st of January 1847, the territories of most of those who remained were brought under British jurisdiction owing to their failure to render the assistance which was required of them during the war, the Chiefs being reduced to

* The Superintendent Hill States, in his political capacity, and the Agent to the Lieutenant Governor at Ambalah, to whom he is subordinate, exercise certain judicial powers in the protected Hill States, for the purpose of repressing the more heinous crimes and of preventing conflict of jurisdictions, but the orders under which these powers are exercised seem not properly to fall within the purpose of the present collection, belonging rather to our political relations with the Hill States than to law.

† In 1853 a curious question was raised as to the effect of the repeal of Act XV of 1836 upon the amenability of European British subjects to the jurisdiction of the Civil Court at Simlah. It was argued that, as Act XI of 1836 ceased to be applicable when the Court was withdrawn from under the control of the Sadr Dewani Adalat, British born subjects were no longer amenable to its jurisdiction. The Governor General in Council, in Resolution No. 855, dated 31st August 1853, recorded in the Home (Legislative) Department, decided that the Courts in Simlah, the Cis-Satlaj and Punjab territories, having been lawfully constituted, European British subjects, never having been exempted from their jurisdiction, were clearly amenable to them. The correspondence was printed and circulated with Judicial Commissioner's Circular No. 61 of 53, (*pp.* 36 *to* 90 *of the volume for the years* 1853 *to* 1856).

the position of jagirdars. Nine States only were spared, including Mamdot, which had previously been subordinate to Lahore, but was now brought under British protection. Two of the remaining States, being held by widows, lapsed on their death, and in 1855, in consequence of the gross mis-government of the Mamdot Chief, he was deprived of his authority, and his territory was brought under British jurisdiction. The orders issued on this occasion will afford a fair illustration of the course which has generally been adopted in regard to small additions to British territory. No orders were given as to the introduction or retention of any system of law, it being evidently considered that the laws in force in the district to which the territory was attached would at once apply, where any law that previously existed depended entirely upon the will of a native ruler.

The orders passed with reference to the administration of the Cis and Trans-Satlaj States in 1846 have already been noticed. When Simlah was placed under the Board of Administration for the Affairs of the Punjab, the principles which had been laid down for the guidance of the Board were generally applied there, but some time elapsed before the powers of the officers attached to the Simlah district were placed upon the same footing as in the plain districts of the Punjab.

V.—The Dehli territory west of the Jamna.

During the rebellion of 1857, the Chief Commissioner of the Punjab was obliged, as a matter of necessity, to undertake the control of the Dehli Division of the North Western Provinces; and by para. 5 of Resolution in the Home Department, dated 9th February 1858, it was announced by the Governor General that, under orders issued in the Foreign Department, it had been separated from the North Western Provinces and attached to the Punjab (*Punjab Gazette for* 1858, *p.* 55). By a subsequent Resolution in the Foreign Department, No. 606, dated 13th April 1858, (*Punjab Gazette for* 1858, *p.* 114) the Governor General formed it into the two Divisions of Dehli and Hissar, consisting of three districts each, and fixed the designations of the officers placed in charge of the districts and of their subordinates. On the same date, the Secretary to the Government of India, by letter No. 617, to the Chief Commissioner, conveyed His Lordship's approval and sanction to the arrange-

ments proposed in Secretary to Chief Commissioner's No. 15 A, dated 15th March 1858, for the future administration of the Dehli territory. In that letter the Chief Commissioner had proposed the introduction of the Punjab system of administration in lieu of the system then existing. It was explained that the effect of this change would be to do away with the separate jurisdiction in the department of Civil Justice previously exercised by the Civil Judge and the Courts subordinate to him, and to invest the District Officer and his subordinates with powers in the Civil department as well as in the departments of Criminal Law and Revenue Administration; while the Commissioner would exercise appellate and controlling authority in every department. It seems clear that these orders, while they introduced a different judicial machinery, effected no change in the law at the time in force in the Dehli territory. But, in communicating them to the Commissioners of Dehli and Hissar, the Chief Commissioner treated them as in effect introducing the law of the Punjab, directing that the Commissioners and their subordinates should be guided in all respects by the Circulars issued from time to time by the Judicial and Financial Commissioners, and by the Circulars which they might hereafter issue. The course thus prescribed was followed, and the Punjab Civil Code and other rules issued in the Punjab before the Dehli territory was attached to it, have ever since been regarded as in full force in the Divisions of Dehli and Hissar. A change then recently made in the Punjab in the limitation rules as to bonds was, for instance, considered applicable to the Dehli territory, and a date was fixed from which it should take effect.

As the Chief Commissioner's order cannot be regarded as having the force of law under the Indian Councils' Act, 1861, it is necessary to consider the legal position of the Dehli territory before its transfer to the Punjab. By Section 4 of Regulation VIII, 1805, the Regulation by which the Regulations applicable to the Ceded Provinces were extended to the conquered Provinces and Bandelkhand, the city of Dehli, and the conquered territory on the right bank of the Jamna, the revenues of which were assigned to His Majesty Shah Alam, were declared not to be subject to the Regulations.

On the abolition of the office of Resident and Chief Commissioner at Dehli, Regulation V of 1832 was passed, placing the Dehli territory under the judicial and revenue control of the

Sadr Dewani Adalat and Nizamat Adalat, and of the Sadr Board of Revenue at Allahabad, respectively.

Section 3 of this Regulation required "the Commissioner of the Dehli territory and all officers acting under his control" ordinarily to "conform to the principles and spirit of the Regulations applicable," "in the conduct of Civil and Criminal trials, in the administration of the revenue, and in all other matters."

Section 4 reserved to the Governor General in Council the power, by "order or resolution of Government, under the official signature of the Secretary," "to introduce the whole or a part of the Regulations in force into the Dehli territory."

"The spirit of the Regulations" made before 29th May 1832, was thus made the law of the Dehli territory, with power to the Governor General in Council to introduce particular Regulations bodily; and Regulations and Acts made after that date, would, of course, be applicable in the Dehli territory, unless an intention that they should have a more limited operation were expressed or otherwise indicated in the Regulation or Act.

Act VI of 1846 removed the Bhatti territory (the present district of Sirsa) from the operation of this Regulation; and Act XXXVIII of 1858 repealed the Regulation itself, except as to the Eastern Parganah* lying on the left bank of the Jamna. This Act provided for the jurisdiction of the Punjab Courts, and for the transfer of pending suits and proceedings, but did not, like Regulation V of 1832, contain any direction as to the law to be administered. Whether, after it passed, "the principles and spirit of the Regulations" prescribed for guidance in the Dehli territory by Regulation V of 1832, ceased to be applicable, is a question of some difficulty; but the better opinion seems to me to be that they continued in force there, as Act XXXVIII of 1858 substituted nothing in their room, and did not, like Act VI of 1846 in the case of the Bhatti territory, seem to contemplate any change in the law to be administered.

By para. 2 of No. 617, dated 4th May 1860, however, from the Secretary to the Lieutenant Governor to the Financial Commissioner, the revenue system *of the Dehli district* was directed to be assimilated to that of the settled districts in the Punjab.

* By Notification No. 2121, dated 11th December 1858, the day on which this Act received the assent of the Governor General, His Excellency announced the transfer of the Eastern Parganah of the Dehli district to the Mirat Division of the North Western Provinces.—*Punjab Gazette for* 1858, *p.* 383.

No similar order appears to have been passed after the erection of the Lieutenant Governorship as to the other districts of the Dehli territory, but there can be no doubt that the same system was intended to apply to all. Rules made by the Governor General after the incorporation of the Dehli territory with the Punjab, or by the Lieutenant Governor after the 1st January 1859 and before 1st August 1861, would of course have the same force under Section 25 of the Indian Councils' Act in the Dehli territory as in the Punjab. This would apply, for instance, to the changes in Criminal and Civil Law and Procedure made in 1859.

A portion of the Begam Samru's jagir became part of the Dehli territory in 1836, and was made subject to the same law by Act XVII of 1836.

In 1857 and 1858 the jagírs of Jhajar, Dádri, Bahádargarh, Ballabgarh and Farukhnagar, which had been formerly under the Government of the jagírdars, were confiscated in consequence of their rebellion, and annexed to the Dehli territory. Dádri was afterwards granted to the Rajah of Jhínd, and portions of Jhajar to the Maharajah of Pattiála, and the Rajahs of Jhínd and Nábha, but the rest still forms part of the Dehli and Hissar Divisions. No special orders were issued by the Governor General with reference to the law to be administered in these territories, but they have been treated as subject to the same laws as the districts to which they have been annexed.

The circle of Panjgranw was subsequently transferred from the Jhínd State to the British district of Hissar, in exchange for villages in the Kuláran parganah, formerly part of the Cis-Satlaj district of Thanesar, made over to the Rajah of Jhínd. This took place subsequent to the passing of the Indian Councils' Act, but the legislature has not been asked to declare the law which shall be applicable to this tract.

VI.—The Bhatti territory.

By Act VI of 1846 the Bhatti territory, which corresponds to the present district of Sirsa in the Hissar Division, was, as already mentioned, exempted from the operation of Regulation V of 1832; and Section 3 of that Act empowered the Governor General in Council to prescribe rules "for the guidance of the Agent" whom the Governor General in Council might appoint for the administration of that territory, "and of all the officers

subordinate to his control and authority, in all judicial and revenue proceedings," and to determine how far the Agent's decisions should be final, or in Civil cases appealable to the Sadr Dewani Adálat, and in Criminal trials subject to reference to the Nizámat Adálat.

Sections 4 and 5 made the rules which should be so prescribed binding upon the Nizámat Adálat in references from the Agent to them, and upon the Sadr Dewani Adálat in appeals to them from the Agent's decisions.

This Act has never been repealed, but the district of Sirsa is one of the districts assigned to the new Hissar Division, by the Governor General's Notification in the Foreign Department, No. 606, dated 13th April 1858, and by that Notification the designations of the officer in charge of the district and of his subordinates were made the same as in the case of the corresponding officers in the Punjab. The district has since been treated as under the same law as the Punjab, and the rules made by the Governor General in Council have fallen into abeyance, and, owing to the length of time which has elapsed, may perhaps be regarded as obsolete. I am informed, however, that those rules, which I have not seen,* contained provisions in regard to village responsibility, founded upon the custom of the country, which continued to be acted upon in conjunction with the Punjab Judicial Circulars on the same subject, though the rules had ceased to be referred to as an authority.

Powers.—Various orders relating to judicial powers are appended to this Chapter, as they can find a place here more conveniently than under subsequent Chapters.

* No trace of the rules can be found in the office of the Deputy Commissioner of Sirsa. My information regarding them is derived from Mr. Oliver, the first officer appointed to that post, who had served in the district before its transfer to the Punjab.

APPENDICES.

I.—DESPATCH CONSTITUTING THE BOARD OF ADMINISTRATION.

Extract paras. 1, 6, 7, 9 to 11, part of 12, 13, 17 to 23, 28, 29, 39 to 57, 59 and 60 from a letter No. 418, dated 31st March 1849, from the Secretary to the Government of India, to the Board of Administration for the Affairs of the Punjab.

1. The Right Honorable the Governor General having been pleased to constitute you Members of the Board of Administration for the Affairs of the Punjab, I am directed to communicate to you the nature of the functions, powers and responsibilities, which he proposes to vest in your high and honorable office, and to add some general remarks on the principles and practices which are to be observed in conducting the Government of that country.

6. The Governor General would wish to uphold native institutions and practices as far as they are consistent with the distribution of justice to all classes; but he is persuaded that, except in some of the wild districts Trans-Indus, or the Alpine country of the Sind Sagur Doab, there is no portion of the country which will not be benefitted by the gradual introduction of the British system at the earliest possible period.

7. With the knowledge now generally prevalent respecting village coparcenaries, there is no apprehension that our officers will not exert themselves to maintain those important bodies in all their integrity. In this and other respects, such as the local laws which regulate the tracing of criminals and the responsibility of landholders for their pursuit and apprehension, the popular institutions will be improved and consolidated by our measures, and the native system of accounts and reports may also be adhered to without any great and radical deviation; so that the only material alteration will consist in the introduction of Europeans as Supervisors and Executive officers.

9. Every civil functionary, from the Board to the Kardar, will be vested with Judicial, Fiscal and Magisterial powers.

Judicial Code.

10. The rules for Civil Judicature will be the same as those in force in the Sutlej Provinces, and several printed copies will shortly be furnished to you for distribution They are calculated to insure substantial justice, without the observance of unnecessary forms and the technicalities which fetter our regular Courts of Law.

11. The Deputy Commissioner will try all Civil suits for property, moveable or immoveable, of a value exceeding one thousand rupees: suits for smaller amounts may be tried by the Assistants, Covenanted and Uncovenanted, and the Kardars, according as the Deputy Commissioners may determine. An appeal will lie from the decision of a Deputy Commissioner to the Commissioner, whose decision will ordinarily be final; but your Board, on cause being shown by a dissatisfied party, or in the event of such course appearing, from the periodical returns, or from any other cause desirable, will call for the record of any Civil case and pass such orders thereon as may seem fit.

Revenue Code.

12. The four short printed Circulars of the Sudder Board of Revenue North Western Provinces, and the pamphlets published under orders of the Lieutenant Governor, form an admirable body of instructions adapted to any Province where the village system obtains, and explains so lucidly the structural and functional divisions of our complicated Revenue machinery, that they should be largely indented for, and circulated amongst our officers. * * * * * * *

Penal Code.

13. With respect to the introduction of our system of Police, the Governor General has no wish that our voluminous laws should be introduced into this new country. The several abstracts of our Regulations may be considered to contain sufficient for the guidance of our Magistrates, to whom, necessarily, a larger discretion must be left than they have in our older provinces.

Assistant and Deputy Commissioners.

17. Their respective powers in Civil cases have been already explained.

18. In the Departments of Revenue and Police, the Deputy Commissioner will exercise the powers of a Collector and Magistrate in the Regulation Provinces, that is, he may sentence to three years imprisonment, including the additional year in lieu of stripes; and it will be at his option to make over such portion of his work to his subordinates as he sees proper.

19. It would seem advisable to vest most of the Assistants with the special powers of a Joint-Magistrate, which will enable them to exercise in criminal cases the full powers of a Magistrate, and render them independent of the Deputy Commissioner as regards appeals, which should lie direct to the Commissioner. In this way the best Assistants may do nearly the whole of the criminal business, including the committals; the general management of the Police being exercised by the Deputy Commissioners.

20. Some of the Extra Assistants may be vested with special powers of a Joint-Magistrate under Regulation XV of 1843, * and others with the special powers of an Assistant Magistrate, as laid in Regulation XIII of 1797, IX of 1807, and III of 1821. *

Commissioners.

21. The Commissioner will perform the functions of the officer of the same denomination in the Provinces, but he will be required to exercise a stricter supervision and control over the Deputy Commissioners than would be required where a regular routine of business is well established and understood. The only criminal cases which he will be required to refer to the Board are those involving a sentence of capital punishment or transportation for life.

* The Act and Regulations referred to in this para. are repealed by Act XVII of 1862.

22. In cases of less aggravation, he can sentence to 14 years imprisonment, and two additional in lieu of stripes.

Board of Administration.

23. The Board of Administration will be invested with plenary authority and control in all departments as agents and representatives of the Governor General. In matters of Civil Judicature and Police they will have the power which is conferred upon the Dewani and Nizamut Adawluts, and in Revenue matters they will have the power of confirming village settlements, reducing exorbitant assessments and remitting balances of Revenue and Abkaree, without any further reference to the Governor General; and they will be invested with the charge of our Political relations in the Protected Sikh States, Cashmere, and Bhawulpoor, as well as on the extreme North Western Frontier, and their authority will extend throughout the Punjab, as well as the country under the jurisdiction of the late Chief Commissioner. All local officers on the Frontier must be strictly interdicted from corresponding with Independent Chiefs in their neighbourhood, and any transgression of this rule must be visited with your severest displeasure.

28. It will not of course be necessary that all three members should decide upon every question referred to them. In ordinary matters a Commissioner's decision may be upheld if confirmed by one member; if the Commissioner's view is dissented from, the concurrent voice of two members will be necessary. Revenue settlements, remission of revenue and reduction of assessments, will require the confirmation of two members: capital punishment and transportation for life can only be inflicted by the concurrent sentence of two members, if in accordance with the Commissioner, and of all three members,* if in dissent from Commissioner.

29. It will be advisable that the Members of the Board should occasionally proceed on a tour of inspection, but no more than one member should be absent at a time. On these occasions, should any sudden emergency arise and prompt action be required, the member on circuit may issue his orders without consulting his colleagues, even in the cases prohibited in the preceding paragraph: such orders should be communicated without delay for the information of Government.

Rent-free lands and Pensions.

39. The very first object to which the Board should direct their attention is the determination of all questions affecting the validity of grants to hold lands rent-free. It is obvious to remark that the longer the investigation is delayed, so much the more do these tenures

* This provision was modified by Government letter No. 1753, dated 20th September 1849, the concurrence of two members in passing sentence or capital punishment or transportation for life, in dissent from the Commissioner, being made sufficient.

acquire the force of prescription, and make resumption more unpopular and apparently unjust. In our older provinces, notwithstanding the frequent declaratory enactments respecting the right and the intention of the Government, the investigations were delayed to so late a period as to give our proceedings a character of injustice and severity.

40. By our occupation of the country after the whole Sikh nation has been in arms against us, we have acquired the absolute right of conquerors, and would be justified in declaring every acre of land liable to Government assessment; and though our officers should not allow their minds to be exasperated against claimants on this account, yet it may instil into them a wise caution against being too liberal and profuse in their concessions, and against doing more for the grantees than their own Government would have done.

41. There is no reason, for instance, why we should maintain in perpetuity an alienation of the Government revenues which would not have been maintained by the power we have succeeded. The Governor General remarks that all grants were resumed by the Sikh rulers at will without reference to the terms of grant, whenever State exigencies or even caprice dictated. On the death of the grantee they lapsed as matter of course, and often were only renewed on payment of a large fine, equal in some instances to many year's collections. The Governor General further observes that the decision of the British Government on these claims, will give a permanency, validity and value to the tenure hitherto unknown. There is not one of the rent-free holders who would at this moment dispute this position, and who would not look upon any concession as a matter of grace. The delay even of a single year would encourage hopes which are not now entertained, and it is therefore particularly desired that the local officers will set the minds of the people at rest upon this most important particular at the earliest possible period.

42. Every holder of rent-free land, who is confirmed in his tenure by the Government, must yield up every document in his possession which entitles him to the exemption from revenue, and a grant must be given to him, under the Board's seal and Secretary's signature, declaring that the grant is a free gift of the British Government. The Governor General believes that this will have an important effect upon the native mind, in disabusing them of the opinion that they have any inherent rights which attach to their tenures in virtue of long possession, and make them regard their new masters in the light of personal benefactors, from whom alone the indulgence with which they are treated may be considered to emanate.

43. No rent-free holder should be allowed to retain any police powers within his tenure, and the Government revenue should be assessed upon each village or tract which constitutes a separate tenure, so that the jageerdar or other holder should not be allowed to rack-rent his tenants, or derive more from the land than would be taken by the Government whose place he occupies.

44. There may be particular instances in which it may be expedient to deviate from this rule, but these should all be considered special; and there may be instances in which it may be expedient to invest jageerdars with police powers, subordinate to the local Civil Authority; these should also be treated as special cases. The Gov-

ernor General believes that in the Cis-Sutlej Province, there are several States in which the assumption of police powers by the British Government has been quite unnecessary, and in one or two cases very inexpedient and much opposed to the interests and wishes of chiefs who have deserved well at our hands, and he will be glad to concur in a recommendation, which he understands has been for some time contemplated by some of the Civil Officers, to modify the stringency of these orders, in cases to which they may not be considered applicable.

45. Where rent-free tenures are held under the condition of service, a scheme of commutation should be adopted on the scale for each horseman and footman authorized in the Sutlej Provinces. The Governor General would merely caution the local officers against too strict an interpretation of the wording of the original grant: in many cases the literal fulfilment of the terms of the original grant has not been exacted, and the actual demands for those contingents for which the grantees have rendered themselves liable have fallen into abeyance, and to revive an obsolete claim now would be unfair and severe.

46. No rent-free tenure should be continued in favor of any man who has taken up arms against the British Government, whether by choice or compulsion. This will not exclude occupant cultivators from actual possession, but merely render them liable to revenue.

47. With these preliminaries, the Governor General proceeds to point out the rules which should guide the officers in their investigations of rent-free tenures.

48. 1*st*.—All grants for the provision or maintenance of former rulers deposed, or former proprietors dispossessed, to be maintained on their present terms, subject to future diminution after the death of incumbents.

49. 2*nd*.—All endowments, *bonâ fide* made for the maintenance of religious establishments, or buildings for public accommodation, to be maintained as long as the establishments or buildings are kept up, provided, as noticed below, they are not exorbitant.

50. 3*rd*.—All persons holding villages or portions of villages, free of rent or money payment, and for which no service was to be rendered, by grants made by Maharajahs Runjeet Singh, Khurruck Singh or Shere Singh, to be maintained in their holdings, free of rent, during their lives. Each case to be open to the consideration and orders of Government on the death of the holder, to be decided according to its merits. Long occupancy will of course receive the consideration of Government.

51. 4*th*.—All persons holding lands or grants as above, subject to a payment of fines in the shape of nuzzerana, peishcush, or the like, to hold for their lives subject to the payment of quarter revenue, and on the death of the holder the land to be resumed and assessed at full revenue.

52. 5*th*.—All persons holding land for which service of any kind was to be rendered to the Sikh rulers, including Bedis and Sodhis, who were expected to perform religious services for the benefit of the donors, to hold for life, subject to a payment of one-fourth revenue:—the case of each such tenure to be reported for the consideration of Government on the death of the holder.

53. *6th.*—Grants made by persons not having authority to alienate the Government revenues to be resumed.

54. *7th.*—Where no deed of grant exists, a holding of three generations to constitute a valid right, and entitle the holder to have his case adjudicated by the foregoing rules.

55. *8th.*—Where Chiefs or others hold lands rent-free which were not granted by Maharajah Runjeet Singh or any other ruler, but won by their own swords, they will deserve consideration, and their cases should be specially reported to Government with the Board's recommendation in each case: any particular cases not provided for in the foregoing rules, to be reported separately to Government for special orders.

56. When grants of great value have been conferred for the maintenance of the state religion, though they would be released under the rules above quoted, they should be restricted to a smaller amount from obvious motives of political expediency. On the other hand, should cases of individual hardship arise from a strict observance of these rules, whether from indigence, infirmity, age or sex, the Governor General, on such being represented, will be happy to relax the severity of the rules, or confer a pension upon the object.

57. The State pensions should also form the subject of early scrutiny, and the same principles should be observed in investigating their validity.

Village Boundaries.

59. The most essential preliminary is the adjustment and demarcation of boundaries. This should be commenced upon with the utmost vigor in every district, immediately the season admits of officers being under canvas, and be prosecuted till there is not a disputed claim left throughout the whole country. The mode of determining boundary questions in the North Western Provinces is known to you, and as a fifteen years' practice has failed to suggest a better and more expeditious system, and as it is highly popular even amongst the litigants, it should be introduced into the Punjab without modification.

60. Care should, however, be taken in the uncultivated tracts not to insist rigidly that village boundaries should necessarily be conterminous. Many tracts will be found to intervene which should be marked off as separate estates, the property of the Government, and either bestowed on the terms usually applicable to grants of waste land in the forests of the Dhoon and Sub-Himalaya, or be reserved till the spread of cultivation, which invariably follows our rule, enables us to dispose of them to advantage. Colonists may be invited from distant provinces to break up the soil, and settle upon the land, though it is to be feared that the love of home, which prevails among our agricultural classes, will preclude the possibility of much advantage being derived from this source.

NOTE.—Paras. 2 to 9 are headed General Remarks. Of these paras., 2 to 5, relating to the appointment of officers under the Board, their salaries, and the designations they were to bear, and para. 8, relating to the formation of native

establishments, have been omitted. Para. 14 relating to the superintendence of the Police of the Province by the Board,—para. 15, to Customs, (on which subject the final orders of the Governor General are to be found in No. 2766, dated 27th December 1849, from Secretary to Government),—para. 16, to the office of Account and Audit,—paras. 24 to 27, to the appointment of a Secretary and a Deputy Secretary to the Board, the distribution of the business among its members, and the mode of conducting its correspondence,—para. 30, to the abstracts of correspondence to be furnished,—paras. 31 to 37, to accounts, disbursements, scale of establishments, and authority to pass expenditure,—para. 38, to the annual reports to be submitted,—para. 58, to Revenue Settlements and Surveys,—paras. 61 to 63, entitled Preventive Measures of Police, and relating to the construction of roads, the disarming of the population, and the dismantling of forts,—and paras. 64 to 68, relating to the development of the resources of the country,—have been omitted, as foreign to the present purpose.

II.—POWERS OF BOARD OF ADMINISTRATION.

By the following letter the Board of Administration was empowered to alter the limits of districts under their jurisdiction without reference to Government.

The Chief Commissioner of course succeeded to this, as to the other powers of the Board, under the Government Resolution of 4th February 1853, and the Lieutenant Governor afterwards succeeded to the powers of the Chief Commissioner.

Extract para. 2 of a letter No. 1108, dated 6th July 1850, from Secretary to the Government of India, to the Board of Administration for the Affairs of the Punjab.

[*Para.* 1.—Sanctioned the transfer of a village from the Lúdhianah to the Jalandhar district.]

Para. 2.—His Lordship also directs me to state that he has no objection to your Board sanctioning such transfers in future, without reference to Government, in cases where both districts are under your jurisdiction.

NOTE.—This rule is now superseded by Act VI of 1867, conferring the same power upon the Lieutenant Governor. It is, however, of some importance as an authority for transfers made at various times before that Act passed.

III.—RESOLUTION OF GOVERNMENT OF INDIA ABOLISHING THE BOARD OF ADMINISTRATION, AND ESTABLISHING THE OFFICES OF CHIEF COMMISSIONER, JUDICIAL COMMISSIONER, AND FINANCIAL COMMISSIONER.

Fort William, Foreign Department, the 4th February 1853.

1*st.*—The Governor General in Council is pleased to resolve that the Board of Administration for the affairs of the Punjab be hereby abolished.

2*nd.*—The Governor General in Council is further pleased, in accordance with this Resolution, to direct, that the powers and functions hitherto vested in the Board of Administration, shall henceforth be vested in an officer to be styled "Chief Commissioner of the Punjab," who will also be appointed Agent to the Governor General.

3rd.—There will also be appointed a Judicial Commissioner and a Financial Commissioner, both of whom shall be entirely subordinate to the Chief Commissioner.

4th.—The Judicial Commissioner is to be the ultimate Judge in all cases of Judicial Procedure, Civil and Criminal; but the concurrent opinion of the Chief Commissioner must be procured, before capital punishment is inflicted on any individual, and also before the punishment awarded by a lower Court is enhanced.*

5th.—To the Judicial Commissioner is to be entrusted the superintendence of all matters relating to the Civil Police, and of the arrangement and control of Jails. On these subjects his orders will be final, with the exception that Circular or General Orders must receive the approval of the Chief Commissioner before they are issued.

6th.—Questions regarding the construction, and important alterations, of all Judicial Police buildings, and regarding the increase of establishments, must be referred by the Judicial to the Chief Commissioner.

7th.—The local funds arising either from nazúl property, the one per cent. road fund, public ferries, or otherwise, will be under the control of the Judicial Commissioner, and he will have authority to sanction any expenditure therefrom, not exceeding ten thousand (10,000) rupees for any one work.

8th.—Questions connected with Ecclesiastical and Educational matters will be decided by the Judicial Commissioner; the more important questions, in these and other departments, being referred to the Chief Commissioner for decision, or submission to Government.

9th.—The Financial Commissioner will superintend and control the Revenue Settlements, will have authority finally to sanction all summary settlements, and the release of small patches of land, not exceeding 10 acres in each case, for the lives of incumbents. His orders regarding the appointment of Lambardars, and all village officials, shall be final.

10th.—All questions connected with the Revenue Survey, Stamps, Salt, Excise, and Pensions, will be in his department. The more important ones will be submitted by the Financial Commissioner to the Chief Commissioner for decision, or reference to Government, as the case may require.

11th.—The Financial Commissioner may, of his own authority, sanction the remission of balance in estates temporarily settled, and in estates held kham. He may grant takávi, for the construction of wells or other small works of irrigation, not exceeding Rupees 500 in each case. He may sanction refunds of land revenue and excise wrongly demanded.

12th.—He may sanction the restoration of a pension, and the payment of arrears, when the pensioner shall not have been absent for more than two years, on good cause being shown for the absence.

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* No. 1787, dated 17th April 1857, from Secretary to Government of India, to the Chief Commissioner of the Punjab, continued the power of enhancing sentences of lower Courts conferred by the latter clause of this paragraph, which had been called in question by the President in Council in a previous letter.

13th.—All questions regarding Inundation Canals, Revenue buildings and establishments, will pass through his office to the Chief Commissioner.

14th.—Both the Financial and Judicial Commissioners are to be authorized to pass contingent bills, to the extent of Rs. 500 for one work, and to sanction temporary establishments, for Settlement or extraordinary purposes, for a period not exceeding six months.

15th.—They will both furnish to the Chief Commissioner a Monthly Index of Correspondence, and nothing in these rules shall be held to prevent the Chief Commissioner from calling for any papers or proceedings, and submitting the same for the revision or orders of Government, whenever he may think fit.

16th.—All matters now vested in the Board collectively and excluded in the above rules, will be under the direct control of the Chief Commissioner.

NOTE.—The office of Lieutenant Governor took the place of that of Chief Commissioner under Government of India Notifications Nos. 1 and 2, dated 1st January 1859.

The Chief Court of the Punjab, constituted under Act IV of 1866, has succeeded to the Judicial Commissioner. The paragraphs relating to the office of Judicial Commissioner, some of which had already been modified by the provisions of the Criminal Procedure Code, are therefore quite superseded.

IV.—ORDERS CONSTITUTING THE OFFICE OF LIEUTENANT GOVERNOR.

No. 1.

FOREIGN DEPARTMENT.

Allahabad, the 1st January 1859.

Under authority received from Her Majesty's Secretary of State for India, the Right Honorable the Viceroy and Governor General is pleased to resolve that a separate Lieutenant Governorship for the Territories on the extreme Northern Frontier of Her Majesty's Indian Empire shall be established; and that the Punjab, the tracts commonly called the "Trans-Sutlej States," "the Cis-Sutlej States" and the "Delhi Territory," shall form the jurisdiction of the Lieutenant Governor. *(Punjab Gazette Extraordinary, dated 10th February* 1859.*)*

No. 2.

The Right Hon'ble the Viceroy and Governor General of India has been pleased to appoint the Hon'ble Sir John Lawrence, Baronet, G. C. B., to be the first Lieutenant Governor of "the Punjab and its dependencies." *(Ibid.)*

NOTE.—The Lieutenant Governor of course succeeded to all the powers vested in the Chief Commissioner in addition to any others considered to appertain to the

higher office. Rules, laws or regulations made by him from the 1st January 1859 to the end of July 1861, have acquired the force of law under the Indian Councils' Act, Section 25.

In regard to the disposal of muáfi cases, the extent of the Lieutenant Governor's powers as compared with those of the Chief Commissioner was settled by the following letters :—

Copy of a letter No. 2601, dated 11th May 1859, from the Under Secretary to Government of India, to the Secretary to Government Punjab.

In reply to the letter (duplicate) from the Officiating Secretary to the Chief Commissioner of the Punjab, dated 29th April 1857, No. 382, but received on 16th April 1859, submitting statements of rent-free holdings in certain parganahs of the Hoshiárpur district, I have the honor by direction of the Governor General in Council to state that, the Punjab having been erected into a Lieutenant Governorship, His Honor the Lieutenant Governor has authority to dispose of the cases himself.

Copy of a letter No. 1628, dated 1st June 1860, from the Secretary to Government of India, to the Secretary to Government Punjab.

In reply to your letter No. 211, dated 5th April last, requesting that the extent of the powers of the Lieutenant Governor to dispose of muáfi cases may be clearly specified, I am directed state that the powers reserved in 1853 to the Governor General in Council are to be exercised in full by His Honor.

V.—POWERS OF COMMISSIONERS. JUDICIAL POWERS OF TAHSILDARS.

Copy of No. 473, dated 12th February 1851, from Sir Henry Elliot, K. C. B., Secretary to the Government of India with the Governor General, to the Board of Administration for the Affairs of the Punjab.

In reply to your Officiating Secretary's letter under date the 22nd ultimo, No. 50, submitting sundry proposals for improving the system of Civil and Criminal Justice which at present obtains in the Punjab, I have the honor to state that, believing as the Governor General does that these proposals will promote substantial justice, His Lordship assents to their being carried out.

Para. 3 of the Board's letter replied to proposed the rules contained in the following Judicial Circular :—

CIRCULAR No. 5 OF 1851.

To all Commissioners and Superintendents under the Board.

1st March 1851.

In order to render the Administration of Justice more prompt, to relieve parties from the expense of attendance on distant Courts, and to lessen to Commissioners the burden of judicial duty, the Board have resolved on certain alterations in the present system,

and have laid down the following rules, which have been approved of by the Most Noble the Governor General, and are to be adopted by you henceforth :—

1.—Cases within the final cognizance of the Commissioner, in which the award would be a sentence not exceeding 7 years' * imprisonment, may be tried and decided on by the Commissioner, upon the proceedings of the Deputy Commissioner.

* *N. B.*—This is to be understood as exclusive of the imprisonment in lieu of stripes in cases were flogging would have been awarded.

2.—In cases within the Commissioner's competency, requiring above seven years * imprisonment, a regular trial shall be held by the Commissioner, whenever a plea of "not guilty" is entered.

* *N. B.*—As in the first rule.

3.—In cases within the competency of the Commissioner, in which the prisoners may voluntarily confess their guilt before the Deputy Commissioner, the trial may be held by the Commissioner on the record of the Lower Court, and he is competent to pass sentence without summoning the parties into his presence.

4.—Whenever the Commissioner, on a perusal of the proceedings of the Deputy Commissioner, may deem the prisoner entitled to his release, he is competent to pass sentence of acquittal without summoning the parties.

5.—Trials for rape, in which the Commissioner may consider a period of imprisonment, not exceeding fourteen years to be sufficient punishment for the offence, are placed within his competency.

Paras. 4 and 5 were circulated to all Commissioners and the Deputy Commissioners of Peshawar and Hazara, by the Board's Judicial Circular No. 58 of 1851, and were as follows :—

Extract paras. 4 and 5 of letter No. 50, dated 22nd January 1851, from the Secretary to the Board of Administration, to the Secretary to the Government of India.

4. The following are proposed to be the rules for investing enlarged powers, in the Civil, Criminal and Revenue Departments, on any Revenue or Police Officer below the rank of Extra Assistant.

1*st*.—The power to be conferred to depend on fitness certified by the Commissioner, and the degree of power to be in proportion to fitness.

2*nd*.—The regulation of the exercise of the power conferred to rest wholly with the Deputy Commissioners, subject to the control of the Commissioner and the Board. Appeals on law and fact to be heard by the Deputy Commissioner, or proceedings to be revised by him without appeal, in every case, though tried by an officer acting as Joint Magistrate, or sitting judicially as Deputy Collector, unless

such superior jurisdiction is expressly relinquished, for the despatch of business, under the authority of the Commissioner.

5. Hereafter it may be found best to define a particular jurisdiction for the officers who are to exercise judical powers, and to grant the powers ex-officio with the original appointment, which may be regarded as implying qualification. But in the infancy of the introduction of the plan to the Punjab, when the merits of our head native officers must vary very much, and the union of judicial qualifications with experience and executive skill must be the growth of time, it seems best to declare a maximum of authority, and to invest each officer under it with a degree of power* suited to his habits and abilities. A large stimulus to exertion is created by a varying distribution of high duties, and the objections of all European officers are forestalled, as the discharge of the new power will be dependent on fitness certified by themselves.

* Powers of a Joint Magistrate, Act XV of 1843. Powers of a Deputy Collector, in Revenue matters, under Reg. IX, 1833, and Reg. VIII, 1831. Powers of Deputy Collector, as Civil Judge, in cases under Section I of the rules for Civil Justice in the Punjab.

VI.—POWERS OF ASSISTANTS AND EXTRA ASSISTANTS.

No. 1514, of the 12th April 1854, from the Officiating Under Secretary to the Government of India, Foreign Department, to the Chief Commissioner of the Punjab.

Your Secretary's Despatch, dated the 20th January last, No. 45, forwarding a set of rules for the examination of Assistants in the Punjab, having been referred for consideration to the Home Department, I am directed to communicate for your information and guidance, the following observations of the Governor General in Council in that Department on the subject.

2. His Lordship in Council observes that Rule I prescribes that an Assistant who has *not* passed the first standard will exercise the ordinary powers described in Clause 3, Section II, Regulation III of 1821. This, His Lordship in Council conceives,* is an error, as in Rule XVI it is ruled that no Assistant shall have special powers unless he has passed the first standard. His Lordship in Council desires me to call your attention to this discrepancy, and inform you that the powers described in Clause 3, Section II, Regulation III of 1821, are never given in Bengal to Assistants who have not passed the junior standard.

3. Both in Bengal and the North-Western Provinces, officers beyond a certain standing have been exempted from examination. The same proposal has been made by the Government of Madras, and His Lordship in Council perceives that the Financial Commissioner in the Punjab has suggested an examination founded on the same principle: it does not therefore seem to the Governor-General in Council to be fair that the new rules should have an indefinite retrospective effect, and he accordingly directs the addition to them of the following rule:—

Extra Assistants, whether Native or European, who were appointed before the 1st of January 1850, are exempted from examination, pro-

* N. B.—It has since been corrected.

vided however that no Assistant will be promoted or receive additional powers to those he now holds unless he pass the first examination.

4. With the foregoing addition, and subject to the correction of the apparent error pointed out in para. 1, the rules suggested by you appear to the Governor General in Council to be well adapted to the peculiar circumstances of the Punjab, and he accords his sanction to them.

Extract Rules 1 to 4 of Rules for the Examination of Assistants in the Punjab.

Half-yearly examination of Assistants.

I. A half-yearly examination of Assistants and Extra-Assistants liable under these Rules to examination shall be held at such time between the 15th of October and 15th of November, and 15th March and 15th of April, as shall be determined on, each year, by the Chief Commissioner.

2nd.—The examinations shall be held at such stations as may appear at the time most convenient. There may be one examination for each Division, or one for two conterminous Divisions, as may be found expedient.

3rd.—The first examination to be held on the 1st of November next.

Two qualifying standards.

II.—At these examinations there shall be two standards of qualification, according to one or other of which the Assistants shall be examined. Until the first standard is passed, the Assistant will exercise the ordinary criminal powers described in Section XX., Regulation IX of 1807. Judicial powers in civil suits shall be limited, in the above case, to the trial of cases not exceeding Rs. 100, and in revenue matters, to the investigation and report on summary suits, and questions connected with the nomination, removal, and payment of village accountants.

Effect of passing each standard.

III.—An Assistant or Extra Assistant who has passed the first standard shall be considered capable of deciding all cases described in Clause 3, Section II, Regulation III of 1821, and Act IV of 1840, also miscellaneous cases; but he will not have authority to commit to the Sessions, nor to have administrative charge of any portion of a district, and his orders in all Departments will be liable to summary revision and appeal by the Deputy Commissioner. His judicial powers in civil suits shall extend to cases not exceeding 500 rupees in value, and he will be qualified to exercise the special revenue powers described in Section XXI of Regulation VIII of 1831.

4th.—On passing the second standard, the Assistant and Extra Assistant will be qualified to commit to the Sessions and to exercise the full powers of a Magistrate, with powers to decide civil suits to the extent of 5,000 rupees in each case. In the Revenue Department he will be capable of undertaking all and any duties that may be assigned him by the Deputy Commissioner. In all judicial questions, an appeal from the Assistant with full powers shall lie only to the Commissioner of the Division.

The powers which Assistant will exercise after passing, and the mode of applying for such powers.

IV.—An Assistant or Extra Assistant who has passed according to the first standard of examination, will usually be vested with the powers above specified for 2nd Class Assistants, and those who have passed the second examination will be vested with the full powers of the 1st Class as a rule. But no special powers in either case can be exercised without report from the Commissioner of the Division, and distinct sanction from the Chief Commissioner, and the above report must particularize the duties on which it is proposed to employ the Assistant or Extra Assistant.—*(Circular No.* 11, *dated 24th April* 1854, *from the Secretary to the Chief Commissioner, to all Commissioners—Appendix B to Judicial Commissioner's Circulars for* 1854.*)*

NOTE.—The remaining rules are omitted, being purely of an administrative character. Those given form the authority for the powers exercised by Assistant and Extra Assistant Commissioners in the Punjab before the passing of Act XIX. 1865; as regards Criminal powers, they were superseded from 1st January 1862 by the Criminal Procedure Code, and as regards other Judicial powers they are now superseded by Act XIX of 1865.

VII.—POWERS OF TAHSILDARS.

Notification No. 2341, dated 11th September 1860.

The following rules, suggested by the officiating Financial Commissioner, defining the powers and duties of Tahsildars, are prescribed by the Honorable the Lieutenant Governor for future observance.

The appointment and dismissal of Tahsildars are matters of grave importance, demanding the most careful consideration on the part of the superior authorities.

It will rest with the Commissioner of the Division to propose a fit person for the appointment to the office of Tahsildar. The confirmation of the Financial Commissioner will be necessary to such appointments, and the opinion of the Judicial Commissioner will be previously taken regarding the judicial qualifications of the nominee. Appointments to the office of Tahsildar will be notified in the *Gazette*.

In the Financial Commissioner's office will be kept registers of all applicants for Tahsildaris, with their certificates, and a register showing the character of every Tahsildar as certified in the annual reports, or abridged from the district character books.

It will not be competent for the Deputy Commissioner to put a Tahsildar on his trial for offences, nor to punish him by fine, suspension or removal, without previously obtaining the assent of the Commissioner, and the Commissioner's order will be subject to appeal, in the Revenue Department, to the Financial, in the Police and Judicial Departments, to the Judicial Commissioner.

Tahsildars will be divided into three classes :—

The first class will have,

1*stly*.,—Full powers to try cases in Appendix A;

2*ndly*.,—Full powers in civil cases to try suits of a value less than 300 rupees;

3rdly.—Full powers in revenue cases to try and decide summary suits and regular revenue suits of a value less than 300 rupees.

The second class of Tahsildars will have,

1stly.,—Limited powers in criminal matters to try cases entered in Appendix B;

2ndly.,—Full powers in civil cases to try suits of a value less than 300 rupees;

3rdly.,—Limited powers in revenue cases to investigate and report summary suits and regular revenue suits.

The third class of Tehseeldars will,

1stly.,—Have no powers civil or criminal;

2ndly.,—Limited powers to investigate and report summary suits and regular revenue suits.

It will rest with Commissioners, at their discretion, to recommend Tahsildars for the exercise of powers. All officiating Tahsildars will belong to the third class, and all Tahsildars who have served one year in the permanent appointment will be promoted to the first class. It will also rest with the Commissioners, with the concurrence of the Financial or Judicial Commissioners, to degrade from a higher to a lower class.

As a general rule, no Tahsildar should have charge of the same Tahsildari for more than five years.

On his first nomination, the Tahsildar will write and sign, in the presence of the Deputy Commissioner, the declaration given in the Appendix C., and no future plea of ignorance of Government orders will receive attention.

Sanads (specimens of which are given) signed by the Commissioner, defining his powers, will be given, from time to time, to every Tahsildar. *Vide Punjab Gazette for* 1860, *page* 365-66.

NOTE.—The Appendices are omitted. The powers of Tahsildars being now regulated by the Criminal Procedure Code and the Punjab Courts' Act, 1865, the above rules are no longer in force, but they are printed as the authority for the powers formerly exercised by these officers.

VIII.—ADMINISTRATION OF THE CIS AND TRANS-SATLAJ TERRITORIES.

Extract paras. 1 to 3, 5 to 8, and 13, of Resolution by the Right Honorable the Governor General of India, dated Umritsur, the 16th March 1846.

1. The Right Hon'ble the Governor General has been pleased to make the following arrangements for the administration of the territories ceded to the British Government by the provisions of Articles 3rd and 4th of the Treaty of Lahore, dated 9th instant, and not provided for by the Treaty with Maharajah Gulab Singh, of this day's date, and for the territories on the left bank of the River Satlaj, confiscated by the Proclamation of 13th December last, and those of the Protected Chiefs, in modification of the orders contained in the Resolution of the Governor General dated 3rd January 1846.

2. The whole of the tracts above described will be in all departments under the superintendence of the Government of India; and all correspondence regarding the political relations of the several Chiefships comprised within those tracts, as well as that connected with the Civil administration, will pass through the office of the Governor General's Agent, North West Frontier.

3. The Governor General's Agent will exercise a general control over all the offices in the jurisdiction of his agency, and will make such arrangements as he may think proper for the conduct of the political duties connected with the territories Cis and Trans-Satlaj.

5. The powers of the Governor General's Agent shall be, in the Judicial and Revenue Departments, similar generally to those of the Sadr Court and Sadr Board of Revenue in the Regulation provinces; but no sentence of death or perpetual imprisonment shall be carried into effect without the confirmation of the Governor General in Council.

6. The powers of the Commissioner and Superintendent shall, in the aforementioned departments, be those generally of Civil and Sessions Judge and Commissioner of Revenue, and Superintendent of Police, in the Regulation Provinces.

7. The powers of the Deputy Commissioners and principal Assistants who are to be placed in charge of separate districts, will, in like manner, be those of Principal Sadr Amín, Magistrates and Collectors, generally.

8. The powers of 1st Assistant will be generally those of Joint-Magistrate and Deputy Collector; and the other Assistants, those of Assistants with special powers in the Regulation Provinces.

13. The administration of the Hill States, Cis-Satlaj, will remain, as determined in the Resolution of the Governor General of the 3rd January, for the present. When reports of the position and interests of the Hill Chiefs in the new territory Trans-Satlaj shall have been laid before Government, the Governor General will consider whether any, and what, modification of that resolution in respect to the administration, may be necessary.

NOTE.—I was not aware of the Resolution dated 3rd January 1846, until the Resolution from which the above extracts are taken reached me from Ambálah on the 18th January 1871. If obtained before publication it will be added hereafter.

The arrangements made in this Resolution were modified by that from which the following extracts are taken.

Extract paras. 10, 12, and 17 to 20, from Government of India, Foreign Department, Resolution dated 26th December 1846.

10. In modification of the arrangement for the administration of the territories Cis and Trans-Satlaj, described in the Resolution of Government dated 16th March last, the Governor General is pleased to determine that the officers holding the appointment of Commissioner and Superintendent in those territories, respectively, shall be directly under the orders of His Lordship in the Foreign Department. All reports, returns, and references, hitherto made by the Commissioner and Superintendent to the Governor General's Agent, will henceforth

be addressed direct to the Secretary to Government with the Governor General.

12. The officers in charge of districts will be termed Deputy Commissioners, of which there will be two classes. The junior officers will be termed Assistants.

17. The powers of the Assistants shall, in the Departments of Civil and Criminal Justice and Revenue Administration, be ordinarily those of Sadr Amins and Joint-Magistrates and Deputy Collectors, as prescribed by General Regulations, respectively.

18. The powers of the Deputy Commissioner shall be those of Civil Judges, Magistrates and Collectors.

19. The powers and duties of the Commissioners shall, in the Criminal Justice and Fiscal Departments, be those of Sessions Judges and Commissioners of Revenue in the Regulation Provinces. The references which would ordinarily in those provinces be made to the Nizamat Adalat or Board of Revenue, being, as above ordered, submitted to the Governor General in the Foreign Department.

20. In Civil suits the decisions of Commissioner and Superintendent will ordinarily be final; but the Governor General, on cause being shown by a dissatisfied party, or in the event of such course appearing, from a perusal of the monthly reports, or from any other cause, desirable, will call for the record of any Civil case and pass such orders thereon as may seem to His Lordship fit and proper.

NOTE.—In his political capacity, the Commissioner and Superintendent, as Agent for the Native States within his jurisdiction, remained subordinate to the Agent to the Governor General at Lahore.

In 1848, Sir Frederick Currie was appointed Agent to the Governor General and Chief Commissioner Cis and Trans-Satlaj States, and the Commissioners of these Divisions became subordinate to him, and afterwards to the Board of Administration for the Affairs of the Punjab.

IX.—EXTENSION OF RULES FOR ADMINISTRATION OF CIVIL JUSTICE TO SIMLAH.

No. 1577, dated 1st July 1848, from H. M. Elliot, Esquire, Secretary to the Government of India, to the Honorable Sir F. Currie, Bart., Chief Commissioner Cis and Trans-Satlaj States.

In reply to Mr. Inglis's letter of the 12th ultimo, No. 45, I have the honor to convey the authority of the Governor General in Council for the substitution in the Simlah Civil Court of the Rules, drawn up in 1847 for the Civil Administration of the Cis and Trans-Satlaj States, in lieu of those made for the Simlah Court in 1842.

NOTE.—The Rules referred to will be noticed hereafter under the head of Civil Law and Procedure.

X.—EXTENSION OF BRITISH JURISDICTION OVER THE PROTECTED SIKH STATES.

Extract paras., part of 9, 10, part of 11, 12, 13, and part of 15, of No. 214, dated 29th September 1846, from Agent Governor General, North Western Frontier, to Secretary to the Government of India with the Governor General.

"In the first place I would suggest that, with the *following exceptions*, all transit and customs duties should be abolished between the Jamna and the Satlaj. The conduct of Chieftains has been such that they cannot claim compensation. * * * * * * * *

10. In the second place, as the contingents of all the Chiefs were found more or less disaffected or useless, it would be unwise to expect assistance from them in any future war. I propose, therefore, that, with the undermentioned exceptions, the contingents be commuted to a money payment on the scale proposed by Government, Rs. 16 and 6, and that lands be taken equivalent to the money payment, as detailed in my letter No. 199, dated the 25th instant.

11. No. 1, Pattiâlah.
„ 4, Jhînd.
„ 6, Farîdkot.
„ 7, Malerkotla.
„ 8, Raikot.
„ 19, Chichrauli (Kalsiah.)
„ 12, Búriah (Diâlghar.)

The above noted seven are the only states that, on the most liberal interpretation, behaved well. I recommend that negotiations be entered into with them for the removal of all customs duties on the terms of giving the states a full equivalent in land for the loss incurred thereby. I further recommend that the contingents of Kalsiah, Raikot and Búriah (amounting in all to only, foot 45, horse 23,) be excused during peace, and that Pattiâlah, Jhînd, Farîdkot, and Malerkotla continue on the old footing.

* * * * * * * * * * *

[The remainder of this para. proposed further rewards or punishments in particular instances.]

12. As regards the Ambalah States, I would suggest that, with the exceptions already mentioned, the police management of all be assumed by Government; that no compensation be given to any one in lieu of transit duties ; and that lands equivalent to the expenses of the police management be resumed.

13. In all cases where the police management is now assumed, or where the police authority is already in our hands, I recommend that Dastur-ul-amals be given from the Zillah Collector's office, by which all parties are to abide, and that whatever Chiefs or Pattidars are proved to break through the rules so laid down, they be deprived of all fiscal powers, and their collections be made for them through the Government Tahsildars.

15. Perpetual disputes and feuds arise on the question of inheritance in the Cis-Satlaj States: I therefore recommend that

advantage be taken of this occasion, authoritatively to declare the law in each family." * * * * *

The letter from which the above extracts were taken was a report on the conduct of the protected Sikh Chiefs during the first Sikh war, with the exception of Aluwalia and Nabha, which were separately reported on.

The orders of Government on this report are contained in the following extracts from No. 465, dated 17th November 1846. The reports on Nabha and Aluwalia had been disposed of by Nos. 459 and 460 of the same date.

Extract paras 1 to 4, 6, (part,) 7, 14 (part,) and 15 of letter No. 465, dated 17th November 1846, from the Secretary to Government of India, to the Agent to the Governor General, North Western Frontier.

1. I am directed by the Right Honorable the Governor General to acknowledge the receipt of your Despatch No. 214, dated 29th September, with its several enclosures, being a general report on the conduct of the protected Sikh Chiefs during the late hostile operations with the Lahore Government, with suggestions for a modification of the relations in which they, with a few specified exceptions, should in future stand to the paramount and protecting State.

2. The Governor General having attentively considered the subject generally, and the evidence adduced regarding the conduct of each Chief individually, has recorded a Minute, of which the following extract, as bearing immediately on the present question, and containing His Lordship's views and orders thereon, is communicated for your information and guidance.

* * * * * * * *

[Paras 21 to 25 only of the Minute are printed, these containing the orders of the Governor General.]

21. "These States have, in reality, (with very few exceptions,) forfeited their privileges by their repeated acts of disaffection and disobedience during the war,—they have shown that their contingents are not to be depended upon,—they cannot be distinguished from the enemy,—they are neither an efficient or a faithful force, and are worse than useless, for they are positively dangerous.

22. "To abolish the existing practice of each petty Chief furnishing his contingent for the service of the paramount power, and substituting in lieu of it local corps commanded by our European officers, recruited from the Sikh population and paid by the Sikh Chiefs indirectly, will, to a certain extent, remedy the mischief of the present system.

23. "I therefore, without hesitation, sanction the proposition, that the moderate rate proposed shall be taken in commutation of personal service, making the exceptions recommended by the Political Agent, and including the Chief of Mamdot in the number of the excepted Chiefs.

24. "I also sanction on the same ground, *viz.*, that these States have forfeited their privileges by their disobedience, the abolition of all transit and custom duties, which, levied through

so many independent small States, is a system most ruinous to the trade of the country, and ought to be, as it has been in our Provinces, abolished. I approve of the exceptions to be made in favor of the Chiefs who conducted themselves with loyalty to the British Government, and I trust the equivalents for their loss by the abolition will be given so as to afford satisfaction.

25. "I also entirely approve of the proposal to take this opportunity of settling the rules of succession to property, by a recorded declaration of what the rule is to be for the future in the families of the landholders."

* * * * * * * *

3. I am directed now to state how the application of the above orders will affect the several Chiefs enumerated in your letter under reply, the numbers affixed to the names being those which they bear in that document.

4.	Pattiálah, ...	1
	Jhínd, ...	4
	Faríd̂kot, ...	6
	Malaîrkotla, ...	7
	Raikot, ...	8
	Buriah (Diálghar), ...	12—Ambalah.
	Mamdot, ...	13
	Chichrouli (Kalsiah), ...	19—Ambalah.

will be exempted * from the operation of the new rule regarding the abolition of customs and the commutation of contingent service to a money payment, on account of their comparative fidelity and good conduct.

6. The Governor General has directed the addition of the Mamdot Chief to your list of exemptions from penal consequences, inasmuch as Mamdot was not strictly a Protected State.

7. The negotiations you propose to enter into with these Chiefs for the removal of all transit duties in their jurisdictions, on the principle of giving them an equivalent in land or money for the sacrifice to their revenue, is approved.

14. As regards the Ambalah States, with the exceptions noted in paragraph 4 of this letter, the assumption of the Police management, and the abolition, without compensation, of all customs, are sanctioned. * * * * * * *

15. The Governor General approves of advantage being taken of the present opportunity for laying down authoritatively the rules of succession to hereditary property in the several Protected Estates, for the guidance of all parties, these rules should be prepared with the utmost care, and after the strictest enquiries as to right and usage."

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* NOTE.—Nabha was added to the list of exempted States by Government letter No. 450 of the same date.

Extract paras. 1 to 5 of letter No. 780, dated 23rd May 1849, from the Secretary to the Government of India, to the Board of Administration for the Affairs of the Punjab.

1. I am directed to acknowledge the receipt of your Secretary's despatch dated the 9th instant, No. 17, submitting, with the observations of the Board, a selected correspondence on the Police, Revenue, and Judicial system obtaining in the Cis-Satlaj States.

2. In reply, I am desired to state that the Governor General entirely concurs in the views expressed by the Board. on the inexpediency of restoring to the Chiefs in the Cis-Satlaj States any portion of the powers which were taken from them.

3. The Governor General observes that the whole subject was fully considered by the late Governor General, and his decision, in the soundness of which His Lordship entirely agrees, was distinctly given. It is to be regretted that imperfect execution of the orders which were then given has led to an anomalous and mischievous state of affairs.

4. The proper remedy, however, lies, in the opinion of the Governor General, not in the restoration of powers which have been partially taken away, but in the full execution of the order that *all* powers of every sort should be extinguished.

5. This step, I am directed to observe, should now be taken, and you will proceed to reduce the recusant Chiefs to the position of British subjects merely, and put an end to the status they have hitherto held of independent or partially independent States.

Extract paras. 4 to 9 of a letter No. 1005—238, dated 16th October 1849, from the Secretary to the Board of Administration for the Affairs of the Punjab, to the Secretary to the Government of India with the Governor General.

4. The privileges which a favorable consideration of the feelings and interests of the deposed Chieftains would induce the propriety of conceding, may be thus stated.

5. Claims against the Chiefs, as named in the Appendix,* not to be tried by the Civil or Revenue Courts if the cause of action arose before the 8th of June 1849, the date of the Board's letter to the Commissioner Cis-Satlaj States announcing the final decision of Government in the matter of sovereign powers.

6. For any offence of a criminal nature committed previous to January 1847, the same parties to be amenable only to the Commissioner as Political Agent. This is taken as the date of the first resumption of the Police powers.

7. For any criminal offence committed since January 1847, the same parties to be exempt for their lives from arrest by the Police, and their family houses from Police interference, except in capital cases or heinous offences against person or property, and in such cases to be responsible only under the orders of the Commissioner directing the Criminal Court to enquire into and try the case.

* In a postscript to this letter it was added that the Appendix here referred to was "not enclosed, it appearing to the Board advisable that its preparation be delayed pending a decision on the general principle."

8. For any civil claims preferred to the Civil or Revenue Courts against the same parties, their persons to be exempt from arrest, and their dwelling houses from attachment.

9. The landed estates of the Chiefs above named, like those of the whole Sikh territory, being held under conditional tenure, will, with reference to the rights of Government to succession in default of heirs, be only liable to attachment of rents and profits under decrees of Court, during the lives of incumbents.

Extract paras. 3 and 4 of a letter No. 2234, dated 5th November 1849, from Secretary to the Government of India, with the Governor General, to the Board of Administration for the Affairs of the Punjab.

3. The Governor General thinks that the Chiefs may, for their lives, be exempted from the authority of all subordinate officers in the matters stated in para. 5, but that these officers should be at liberty to represent any case of peculiar hardship to the Board, who can institute further enquiries through the Commissioner if they see fit, and direct the case to be tried on its merits.

4. The exemptions suggested in paras. 6, 7, 8, of your Secretary's communication, may, His Lordship thinks, be admitted.

Though para 9 of the Board's letter to Government was not noticed in that from which the above extracts are taken, the Board appear to have considered the proposition contained in that para. as sanctioned; accordingly, in their Secretary's No. 1273, dated 19th November 1849, to the Commissioner Cis-Satlaj States, they copied paras. 5 to 9 as having received the sanction of the Governor General.

In this letter the Board requested the Commissioner to furnish a list of the Chiefs whom he considered best entitled to these privileges. In their No. 218, dated 26th April 1850, to Government, they submitted the list, and it received the approval of the Governor General in the following letter:—

No. 146, dated 11th May 1850, from Sir Henry Elliot, K. C. B., Secretary to the Government of India (Foreign Department) with the Governor General, to the Board of Administration for the Affairs of the Punjab.

In reply to your Secretary's letter of the 26th ultimo, No. 218, I am directed to convey to you the approval of the Governor General of the list which accompanied it, shewing the Chiefs whom it is proposed to exempt from the jurisdiction of the Civil and Criminal Courts in certain cases.

The list, which accompanied the Board's letter, is appended. Many of the Chiefs named in it are now dead, but a few still survive.

List of Chiefs whom it is proposed to exempt, under the orders of the Board of Administration, No. 1273, dated 19th November 1849, from the process of the Civil and Criminal Courts.

	Names of privileged Sirdars.	Name of Ilaka.	Remarks.
1	Bhai Jasmir Singh, ...	Arnauli, ...	Sons of Bhais Gulab Singh and Sangat Singh, the sons of Basawa Singh.
2	Do. Naonehal Singh, ...		
3	Do. Anokh Singh, ...		
4	Nawab Muhamad Ali Khan, ...	Kunjpura.	
5	Sirdar Sher Singh, ...	Shahabad, ...	Sons of Karam Singh.
6	Do. Ranjit Singh, ...		
7	Do. Partab Singh, ...		
8	Do. Jíwan Singh, ...	Buriah.	
9	Mír Muhamad Akbar Ali Khan, ...	Kotaha.	
10	Rajah Gurbaksh Singh, ...	Mannimajra.	
11	Sirdar Fatteh Singh, ...	Pubhat.	
12	Sirdar Bhopal Singh, ...	Singhpuriah, ...	Sons of Budh Singh.
13	Do. Lal Singh, ...		
14	Do. Dyal Singh, ...		
15	Do. Gopal Singh, ...		
16	Do. Jaswant Singh, ...		
17	Do. Dewa Singh, ...	Sialbah.	
18	Do. Budh Singh, ...	Ladhran, ...	Sons of Wazír Singh, Ram Singh, Utam Singh and Rajah Singh, the sons of Charat Singh.
19	Do. Chaman Singh, ...		
20	Do. Sahib Singh, ...		
21	Do. Kishan Singh, ...		
22	Do. Sangat Singh, ...		
23	Do. Albel Singh, ...		
24	Do. Harnam Singh, ...		
25	Do. Hari Singh, ...		
26	Do. Kanh Singh, ...		
27	Do. Ram Singh, ...		
28	Do. Sham Singh, ...		
29	Do. Nidhan Singh, ...		
30	Do. Basawa Singh, ...		
31	Atta Muhamad Khan, ...	Kotla Nihang.	
32	Sirdar Mith Singh, ...	Malodh.	
33	Do. Basant Singh, ...	Kheri.	
34	Do. Ram Singh, ...	Shamgarh, ...	Sons of Dewa Singh.
35	Do. Kanh Singh, ...		
36	Do. Ranjít Singh, ...	Bair & Chímah,	Sons of Bhag Singh.
37	Do. Hakíkat Singh, ...		
38	Do. Lehna Singh, ...	Síkri.	
39	Do. Natha Singh, ...	Dhanaurah, ...	Sons of Sahib Singh.
40	Do. Lakha Singh, ...		
41	Do. Amar Singh, ...	...	Grand son of Sahib Singh.
42	Do. Dewa Singh, ...	Mustafabad, ...	Sons of Rattan Singh.
43	Gursaran Singh, ...		
44	Sirdar Sheokirpal Singh, ...	Shahíd.	
45	Do. Jowahir Singh, ...	Thol.	
46	Do. Gahnda Singh, ...	Kharar.	
47	Do. Basawa Singh, ...	Baídwan, ...	Grandsons of Sirdar Ranjít Singh.
48	Do. Bhagwan Singh, ...		
49	Do. Jíwan Singh, ...		
50	Do. Jaswant Singh, ...	Bairsal.	
51	Do. Fatteh Singh, ...	Hallahar.	
52	Do. Dewa Singh, ...	Ledah.	

List of Chiefs.—Concluded.

	Names of privileged Sirdars.	Name of Ilaka.	Remarks.
53	Meean Devi Singh, ...	Ramghar,	Sons of Maldeo and Narain Das, sons of Kushal Singh.
54	Do. Dalip Singh, ...		
55	Do. Hari Singh, ...		Sons of Gopal Singh, son of Narain Das, —son of Kushal Singh.
56	Do. Jai Singh, ...		
57	Do. Sheodarshan Singh, ...		
58	Do. Suchet Singh, ...		
59	Rao Natha Singh, ...	Raipur.	
60	Sirdar Nihal Singh, ...	Kalar.	
61	Bhaee Sampuran Singh, ...	Bagrian.	
62	Sirdar Sukha Singh, ...	Badrukian.	
63	Do. Bhagwan Singh,... ...		
64	Do. Fatteh Singh, ...	Sikandra,	Sons of Ugar Singh.
65	Do. Bhag Singh, ...		
66	Do. Narain Singh, ...		
67	Bhaee Zabrjang Singh,...	Jhumba.	

XI.—ANNEXATION OF MAMDOT.

Extract part of para 1, and paras 6 to 10 of letter No. 264 dated 6th June 1855, from Secretary to the Government of India, with the Governor General, Foreign Department, to the Chief Commissioner of the Punjab.

I have received and laid before the Governor General your letter No. 288, dated 7th April 1855, regarding the tyranny exercised by the Nawab of Mamdot, and recommending that he be deprived of all jurisdiction within his district and removed to Lahore * * *

[In paras. 2 to 5 the position of the Mamdot State relatively to the British Government is discussed ; a more formal investigation of the charges against the Nawab is directed ; and the following measures are ordered to be taken if those charges should ultimately be established.]

6. Sovereign power should be withdrawn from the Chiefship of Mamdot wholly and for ever.

7. The Nawab should retain possession of the land, but as a jagir only. All police and revenue powers, and all other powers of administration, should be exercised by the British Government.

8. The service of 50 sowars now due by Mamdot to the Government of India, should be commuted for a money payment calculated in the usual manner.

9. In consideration of this payment and of the service which it represents, the charge of preserving the public peace by the maintenance of a proper police in Mamdot, should be borne, as elsewhere, by the Government of India.

10. All other charges should be paid from the revenue of the land, and the surplus should be distributed between the Nawab and the members of his family in such proportions as may hereafter be deemed right.

[Para. 11 refers to the residence of the Nawab and his immediate family; and para. 12 directs that the above measures should not be carried into effect until instructions should be issued upon the report of the result of the further investigation directed to be made.]

Extract para. 2 of letter No. 1179, dated 28th February 1856, from Secretary to Government of India, Foreign Department, to the Chief Commissioner of the Punjab.

2. His Lordship in Council directs me to observe that this enquiry has been deliberately and carefully conducted before any final report was submitted; and he has no hesitation in expressing his opinion that the case alleged has been proved against the Nawab, who ought, therefore, as recommended by you, to suffer the penalties specified in my letter to your address, No. 264 dated 6th June 1855, and you will accordingly enforce them.

NOTE.—See remarks, *ante* p. 10, on the subject of the annexation of Mamdot, under the head of Rules for the administration of the Cis-Satlaj and Hill territories acquired by lapse or exchange, &c.

XII.—TRANSFER OF THE DEHLI TERRITORY TO THE PUNJAB.

Extract para. 5 of Resolution in the Home Department, dated the 9th February 1858.

5.—Under orders which have been issued in the Foreign Department, the Delhi Division has been separated from the North-Western Provinces and has been attached to the Punjab, under the administration of Sir John Lawrence, G. C. B. *(Punjab Gazette for 1858, page 55).*

NOTE.—As only this para. of the Resolution was communicated to the Punjab Government, and the remainder did not appear either in the Calcutta or in the Punjab Gazette, it had probably no reference to the transfer of the Dehli territory.

FOREIGN DEPARTMENT.

Resolution No. 606, the 13th April 1858.

The Delhi territory having been transferred by a Resolution of the Right Hon'ble the Governor-General, in the Home Department, dated the 9th February 1858, to the administration of the Chief Commissioner in the Punjab, the Right Hon'ble the Governor-General has resolved that the territory in question shall be separated into two Divisions, to each of which a Commissioner shall be appointed. The one will be designated the Delhi Division, and will comprise the districts of Delhi, Goorgaon and Paneeput. The other will be designated the Hissar Division, and will comprise the Districts of Hissar, Rohtuck, Jhujjur and Sirsa.

The Right Hon'ble the Governor-General has further resolved that the Officers in charge of the districts composing the Delhi and Hissar Divisions, shall have the designation of Deputy Commissioners, and their subordinates the designation of Assistant Commissioners and Extra Assistant Commissioners, as in the Punjab. *(Punjab Gazette for* 1858, *p* 114*)*

Extract paras 1 and 2 of a letter No. 15A. dated 15th March 1858, from the Secretary to the Chief Commissioner Punjab, to the Secretary to Government of India.

1. The Delhi territory having now been formally transferred to the jurisdiction of the Chief Commissioner, I am directed to submit, for the consideration of the Right Honorable the Governor General, the following proposals and recommendations.

2. In the first place, the Chief Commissioner proposes that the Punjab system of administration be introduced into this territory in lieu of the existing system. The effect of this change would be to do away with the separate jurisdiction in the department of Civil Justice, and the separate judicial machinery. In each district the Deputy Commissioner or District Officer would be vested with the powers of a Magistrate, Collector, and Civil Judge. Under him would be a general staff of Assistants, Extra Assistants and Native Officers who would act subordinately to him in all departments. Over each circle of Districts or Division, would be a Commissioner, who would be the Sessions Judge for Criminal trials, and would also be the sole appellate and controlling authority in every branch of the administration. The Commissioner of Division would again be subordinate to the Judicial and Financial Commissioners at Lahore in their respective departments, and the whole would be under the general supervision of the Chief Commissioner.

NOTE.—The remaining paragraphs of this letter related to establishments, designation of officers, etcetera.

Extract para. 1 of a letter No. 617, dated 13th April 1858, from the Secretary to the Government of India, to the Chief Commissioner Punjab.

1. Your Secretary's letter dated the 15th ultimo No. was duly received by me and laid before the Governor General, and I am now directed to inform you in reply that His Lordship approves and sanctions the several arrangements proposed by you for the future administration of the Delhi Territory.

XIII.—PUNJAB REVENUE SYSTEM ADOPTED IN THE DEHLI DISTRICT.

Extract para. 2 of No. 617, dated 4th May 1860, from the Secretary to Government Punjab, to the Financial Commissioner of the Punjab.

2. The Lieutenant Governor entirely concurs with you that the time has arrived when the Revenue system of the Delhi district should be assimilated to that of the settled districts in the Punjab. Mr. Cooper's attention should at once be turned to this subject.

Note.—This order seems to have been intended to refer to the Land Revenue system, as that of districts in which a Regular Settlement of Land Revenue has been effected, is specified as the system to be introduced.

It is so very general in its terms that there is considerable room for doubt whether the whole of the Land Revenue Law in force in those districts is introduced

whether for instance, it extended rules of so special a character as that against sub-letting of villages; but the rule instanced has certainly been treated as in force in the Dehli district.

XIV.—JUDICIAL DECISIONS OF SETTLEMENT OFFICERS.

Extract para. 5 of a letter No. 94 dated 14th August 1849, from Secretary to Board of Administration for the Affairs of the Punjab, to the Secretary to the Government of India with the Governor General.

5. The Board being of this opinion, desire me to solicit the sanction of Government to the decisions of the Settlement Officers, Cis and Trans-Satlaj States, being considered final, (subject to the usual Revenue appeal,) in all cases decided on their merits. Non-suits or claims thrown out as not cognizable by Settlement Officers, would, of course, be referrable to the Civil Courts.

No. 1602 dated 1st September 1849, from Secretary to the Government of India with the Governor General, to the Board of Administration for the Affairs of the Punjab.

I am directed to acknowledge the receipt of your Secretary's despatch dated the 14th ultimo, No. 94, submitting, for orders, copy of a despatch from the Commissioner Trans-Satlaj States relative to the power of the Civil Courts to take up and re-investigate cases decided after full enquiry by the Settlement Officers, and in reply to state that the Most Noble the Governor General approves of the Board's recommendation on the subject, as contained in para. 5 of the despatch under acknowledgment, *viz*, that the decisions of the Settlement Officers under their authority be considered final, (subject to the usual revenue appeal,) in all cases decided on their merits.

2. Under this determination it will be necessary to enjoin that the Revenue officers should be more careful to go into the merits of a case than they would be if they knew it was open to appeal to themselves in the Civil Court, when they might have the opportunity of revising their own summary decisions.

NOTE.—It will be observed that the Board's reference mentioned only Settlement Officers in the Cis and Trans-Satlaj States, but that the reply, though it refers to the para. containing the Board's proposition, is more general in its terms and appears to extend to the decisions of all Settlement Officers under the Board in cases judicially investigated.

Under the Regulations, the decisions of Settlement Officers exercising judicial powers could be re-opened by a civil suit instituted within one year from the date of the decision.

Since the passing of Act XIX of 1865, Settlement Officers in the Punjab can only exercise judicial powers when invested with them under Section 21 of that Act, and the trial of appeals from their decisions is provided for by Sections 21 and 22.

Section 24 provides that decisions prior to the passing of the Act shall not be invalid solely on the ground of a doubt as to the authority of the officer who passed the decision.

XV.—POWERS EXERCISED BY THE ASSISTANT COMMISSIONER KASAOLI UNDER ACT III OF 1859.

Extract para. 1 from a letter No. 969 dated the 29th November 1859, from the Secretary to Government Punjab, to the Judicial Commissioner for the Punjab.

1. In reply to your letter, and its enclosure, No. 674 of the 22nd instant, I am directed to inform you that the Honorable the Lieu-

tenant Governor has been pleased to vest the Assistant Commissioner and Cantonment Joint-Magistrate at Kasaoli with the Civil powers described in Act III of 1859, for the disposal of petty Civil cases at that station and at Sabathu. But as a Court of Requests already exists at Dagshai, Captain Paske will not exercise the powers now given him at that station.

JUDICIAL DEPARTMENT.

Notification No. 961, *dated* 29*th November* 1859.

The Assistant Commissioner of Kasaoli, in whom are vested the functions of Cantonment Joint-Magistrate, is empowered to dispose of petty Civil cases at that Station, and at Subathoo, under Act III of 1859. (*Punjab Gazette for* 1859, *page* 419.)

NOTE.—No officer being mentioned by name in this Notification, it was for a considerable period interpreted as conferring upon the successive Assistant Commissioners of Kasaoli, though gazetted merely as Assistant Commissioners, the powers of Cantonment Joint-Magistrate, and also Civil jurisdiction up to Rs. 200, without liability to appeal under Act III of 1859. The powers of Cantonment Joint-Magistrate in the three hill Cantonments of Kasaoli, Dagshai and Sabathu, had been exercised by Captain Paske and his predecessors before the date of this order, though in Captain Paske's case the gazette order posting him to the Simla District, neither appointed him Cantonment Joint-Magistrate, nor stationed him at Kasaoli. In 1861, Lieutenant Havelock, who was posted in 1860 as Assistant Commissioner at Kasaoli in succession to Captain Paske, was vested with Civil powers under Act III of 1859 in Dagshai, the order designating him by name as Assistant Commissioner and Cantonment Joint-Magistrate of Kasaoli. His successors were posted as Assistant Commissioners, but have continued to exercise the powers of Cantonment Magistrate. In 1868, Mr. Tremlett, Assistant Commissioner at Kasaoli, was invested by Gazette Notification with the powers of a Magistrate within the limits of the three hill Cantonments under Section 23 of the Criminal Procedure Code. He thus became a Cantonment Magistrate under Section 3 of Act XXII of 1864, which had been extended to all Punjab Cantonments in 1865, and any of his successors may become a Cantonment Magistrate in the same way. But Mr. Tremlett seems to be the first Assistant Commissioner of Kasaoli who ceased to exercise jurisdiction under Act III of 1859.

If the Notification of 29th November 1859 had the force of law under the Indian Councils' Act, any Assistant Commissioner of Kasaoli, in whom is vested the functions of Cantonment Magistrate, would be empowered to dispose of cases there and at Sabathu under Act III of 1859, until a Court of Small Causes is established by the Local Government under Section 8 of Act XXII of 1864 and Act XI of 1865. Since the introduction of Act XXII 1864, however, the functions of Cantonment Magistrate cannot be considered to be vested in the Assistant Commissioner by that order, even if it had that effect before; but its precise import is open to much doubt: the establishment of a Small Cause Court would remove these doubts by superseding it.

XVI.—DELEGATION OF POWERS OF GOVERNMENT, UNDER ACT I, 1849, TO COMMISSIONER CIS-SATLAJ STATES.

No. 5281, dated 17th October 1856, from Secretary to the Government of India, to Sir John Lawrence, K. C. B., Chief Commissioner of the Punjab.

I have the honor to acknowledge the receipt of your Officiating Secretary's letter dated the 19th ultimo, No. 681, on the subject of vesting the Commissioners with authority under Act I of 1849, to try, ordinarily, British subjects charged with the commission of crime in foreign territory, without previous reference to the Chief Commissioner, only "particular and special cases" being reported by them.

2. In reply, I am directed to state that the Governor General in Council considers it to be very reasonable that the authority alluded to should be given to the Commissioner of the Cis-Satlaj States, where the territories of the British are so intermixed with those of Independent States, that the one may be said to be geographically incorporated with the other. But His Lordship in Council does not see that there is any reason equally good for delegating the same authority to the other Commissioners; and he therefore limits the extension of it to the Commissioner of the Cis-Satlaj States.

NOTE.—If there were any doubts as to whether Act I of 1849 had the force of law in the Punjab before its extension by Notification No. 583, dated 12th 1861, this order would be sufficient to remove it. The delegation of powers by the Local Government to Commissioners in that Notification and the subsequent Notification dated 5th February 1864, is not authorized by Section 9 of Act I of 1849. It might perhaps be argued that the powers delegated by this authority to the Commissioner Cis-Satlaj States could not be exercised by his successors in that office, without an express delegation of powers to them under Section 9 of the Act; but any objection to the exercise of the powers on this ground would seem to be met by the fact that the order amounts to a rule having the force of law under the Indian Councils' Act, 1861, Section 25.

XVII.—JUDICIAL POWERS CONFERRED UPON JAGIRDARS.

Extract paras. 1, 12, and 15 to 17, of No. 227—513 dated 30th April 1860, from Secretary to Government Punjab, to Secretary to Government of India with Governor General, Foreign Department.

Your letter No. 320 dated 31st January last, instructed the Punjab Government 'to report for the information of His Excellency 'the Viceroy, whether there are, in the Cis-Satlaj States or in any 'other part of the Punjab, any Sirdars or other landholders who 'might safely or properly be entrusted with Magisterial, Police, or 'Revenue powers, to be exercised in subordination to the chief dis-'trict authority, and in harmony with the system of administration 'under the British Government.' Accordingly, the Lieutenant Governor called for reports from the several Commissioners. Copies of these are now transmitted, but their contents will be briefly reviewed, prior to the expression of the Lieutenant Governor's own views.

12. It will thus be perceived that the Commissioners almost unanimously approve of the grant of jurisdiction to the territorial chiefs within their divisions. With these officers the Lieutenant Governor entirely concurs. His Honor is more particularly interested in the success of the measure, having, in his report on the administration of Oudh, advocated its introduction, which has since been ably and judiciously effected by the Chief Commissioner, Mr. Wingfield.

15. Confident of the beneficial tendency of the measure, His Honor is not the less sure that it must be introduced with care, and under certain restrictions: His Honor would make the jurisdiction *personal* not *hereditary*. The son of a powerful chief would, *if qualified*, naturally succeed to its exercise, but the Government must decide whether he be qualified or not. And if it be proved to the satisfaction of Government that any Chief who has been invested with powers, has employed them improperly, or is unfit to wield them, they will be withdrawn.

16. The following are the names of those chiefs whom the Lieutenant Governor, after consulting the Commissioners, would invest with powers, in the several divisions.

Dehli Division.

The Nawab of Karnal, within his own estate, excepting the township of Karnal, which is a British station, and in which he will have jurisdiction only in cases specially referred to him by the local authorities.

Hissar Division.

No recommendation.

Cis-Satlaj States.

Thanesar District.	The Nawab of Kunjpura. The Bhai of Arnauli. The Bhai of Siddowal. The Sirdars of Badrukian.
Ambalah District.	Sirdar of Buriah. Mír of Kotaha. Mían Ranjít Singh of Ramghar. Sirdar Bhugwan Singh of Baidwan. Rai Kishan Singh of Raipur. Sirdar Dyal Singh of Ghanauli.
Ludhianah District.	Sirdar Utam Singh of Rampura. Sirdar Mith Singh of Malodh. Bhai Sampuran Singh of Bagrian.

The above are recommended by the Commissioner, in whose letter will be found a statement showing the value of their jagírs.

Trans-Satlaj States.

The Rajah of Nadaon.
The Rajah of Síba.
These are both resident in the hills.

Amritsar Division.

The Commissioner has made no recommendation, but the Lieutenant Governor cannot pass over the following, who were, under the Sikh regime, Chiefs of leading importance, and are still possessed of great influence.

Siálkot District.	Rajah Tej Singh.
Amritsar District.	Sirdar Shamshér Singh, Sindhanwala.
Gurdaspur District.	Rajah Sahib Dyal.

Lahore Division.

Lahore District.	Sirdar Kanh Sing, Nakkai.
Fírozpur District.	Guru Gulab Singh.
Gujaranwala District.	Sirdar Jhanda Singh "Butalia."

The Commissioner has mentioned other names, but His Honor prefers selecting the above, which are most prominently put forward.

Multan Division.

No recommendation.

Rawalpindi Division.

Rawalpindi District.	Sirdar Fatteh Khan of Kot.
Gujarat District.	Sirdar Nihal Singh, Chachi.

Peshawar Division.

Kohat District.	Khwajah Muhamad Khan.
Peshawar District.	Saiad Ayauddín of Marozai.
Hazara District.	Raja Ali Gohar Khan.

17. In all 27 persons are recommended for investiture by the Lieutenant Governor. They have been carefully chosen, and they will suffice for a fair trial of the scheme.

Letter from Under-Secretary to the Government of India with the Governor General, Foreign Department, to Secretary to Government Punjab, dated 7th May 1860.

I am directed by the Governor General to acknowledge the receipt of your letter, No. 272, dated the 30th ultimo, conveying the recommendation of the Lieutenant Governor in regard to vesting Native Chiefs and Sirdars of the Punjab with Revenue and Magisterial powers.

2. The Governor General has read, with great satisfaction, the favorable opinions given by the Lieutenant Governor, and by nearly all his officers, of the proposal to invest some of the Sirdars of the Punjab with Magisterial and Revenue powers, and His Excellency wishes that no time may be lost in giving effect to the scheme.

3. The Governor General does not gather from your letter whether the Lieutenant Governor is favorable to the proposal of the Commissioner of the Trans-Satlaj Division that some of the Hill Chiefs of the Kangra country and its neighbourhood should be entrusted with Civil, as well as with Magisterial and Revenue powers. Such powers would be out of place in the hands of the Sirdars of the plains for the reason indicated by Mr. Melvill; but the Governor General is greatly inclined to think that, both from the old established hold which the Chiefs in that part of the hills exercise over the people, and from what His Excellency has found to be the universal opinion of our officers, as to the character of the people themselves, who are described as very docile and truthful, and possessed with a strong feudal attachment to their Chiefs, the experiment might be tried with good chance of success.

4. It would certainly have been tried in Oudh, the Governor General directs me to observe, if the Chief Commissioner had not been of opinion that the intricacies, and, to them unintelligible character of our Civil Procedure, as exhibited in the provinces adjoining Oudh, would have had the effect of frightening the talukdars, who were already more than sufficiently mistrustful of their ability to deal with Magisterial cases.

5. The same objection should not apply to the Trans-Satlaj Hill Chiefs, who know the Civil practice in our Courts only as it prevails under the simple procedure of the Punjab.

6. His Excellency will be glad to know the Lieutenant Governor's views on this point. Of the two modes of carrying out the proposal, the first of those suggested by Mr. Melvill, that is, the placing the Chiefs in the position of Assistant Commissioners, appears to the Governor General to be the best.

7. His Excellency is glad that the Lieutenant-Governor intends to leave the working of the whole scheme mainly in the hands of his very able Commissioners. I am to observe, however, that His Honor seems to have somewhat misunderstood the extent of the interference exercised by the Chief Commissioner in Oudh. The Governor General believes that the only restriction which Mr. Wingfield puts upon his officers is, that if any talukdar is to be rebuked or found fault with, this shall be done through the Chief Commissioner alone The Governor General approves of this, as tending to elevate the talukdar in his own estimation, and to render him more careful not to incur blame. But it is possible that in the Punjab the number and extent of the divisions would make the rule inconvenient.

8. Lastly, I am to request that the names of the several Sirdars, who may be invested with Magisterial and Revenue powers, and the extent of the powers conferred on them, may be notified in the *Gazette*.

Notification No. 641, *dated* 26*th May* 1860.

With the sanction of, and in accordance with the announcement made at the Durbar held at Lahore on the 16th February 1860, by His Excellency the Governor General and Viceroy of India, the Hon'ble the Lieutenant-Governor is pleased to confer Judicial, Revenue, and Police jurisdiction, as hereinafter detailed, on the undermentioned Chiefs and Jagirdars, within their own territories and jagirs.

In the Trans-Satlaj States, the Raja of Nadaon is invested with the full Criminal and Police jurisdiction of a Deputy Commissioner: except that he will not be competent to give sentence of *imprisonment* beyond six months, nor of *fine* beyond two hundred rupees. He is further invested with the full Revenue jurisdiction of a Deputy Commissioner; and with the power to decide all Civil suits, the cause of action in which has arisen in his territory, not exceeding the value of three hundred rupees. In all cases an appeal will lie to the Deputy Commissioner of the district.

The Rajah of Síba is invested with similar Criminal, Police, Revenue, and Civil powers.

The undermentioned Chiefs and Jagirdars are invested with the special powers of Assistant Commissioners, in Criminal and Revenue cases, and with power to decide Civil suits, the cause of action in which has arisen within their jagirs, not exceeding the value of three hundred rupees In all cases an appeal will lie to the Deputy Commissioner of the district. They will also receive the reports of the village police regarding all crimes committed on their estates, and will initiate the steps for their detection. In heinous cases information will also be conveyed to the nearest Government police post.

Dehli Division.

Karnal District.	The Nawab of Karnal, (excluding the township of Karnal.)

Cis-Satlaj States.

Thanesar District.	The Nawab of Kunjpura. The Bhai of Arnauli. The Bhai of Siddowal. The Sirdars of Badrukian.
Ambalah District.	The Sirdar of Buriah. The Mír of Kotaha. Mían Ranjít Singh of Ramghar. Rai Kishan Singh of Raipur. Sirdar Dyal Singh of Ghanauli.
Ludhianah District.	Sirdar Utam Singh of Rampura. Sirdar Mith Singh of Malodh. Bhai Sampuran Singh of Bagrian.

Lahore Division.

Lahore District.	Sirdar Kanh Singh, Nakkai.
Fírozpur District.	Guru Gulab Singh.
Gujaranwala District.	Sirdar Jhanda Singh, Butalia.

Amritsar Division.

Amritsar District.	Rajah Sahib Dyal.

Rawalpindi Division.

Rawalpindi District.	Sirdar Futteh Khan of Kot.
Gujarat District.	Sirdar Nehal Singh, Chachi.

Peshawar Division.

Kohat District.	Khwajah Mahomed Khan.
Peshawar District.	Saiad Ayauddín of Marozai.
Hazara District.	Rajah Ali Gohur Khan.

A special jurisdiction will also be conferred on the following Chiefs in the Amritsar Division :—

Rajah Tej Singh *of Siálkot.*
Sirdar Shamsheri Singh *of Raja Sansi.*

No. 639 dated 26th May 1860, from Secretary to Government Punjab, to Officiating Judicial Commissioner Punjab.

I am directed to transmit, for your information and guidance, copy of the Government letter marginally* noted, together with a notification, which will be published in the *Punjab Gazette*, relative to the conferment of Judicial and other powers on certain Chiefs and Jagirdars of the Punjab.

* From Mr. Under Secretary Aitchison, dated 7th May 1860.

2. The powers conferred by the notification may be exercised from the date on which the Financial Commissioner, (with whom you should communicate,) shall report that the estates of the Chiefs

named are properly consolidated. It is probable that several of them are so already, but no report has yet been received in this office from the Financial Commissioner.

3. You will observe that the Rajahs of Nadaon and Síba, in the hill tract of the Trans-Satlaj States, are placed in a separate category from the other Chiefs. This is owing to the special recommendation of the Commissioner, contained in his letter No. 39, dated 10th ultimo, to your address, and to the hereditary influence of these Chiefs within their own domains. Their estates should be rendered as compact as possible, and, if possible, the patches of land which have escheated to our Government exchanged. Measures should be taken to remove all Government establishments from these jagirs. The Rajahs will be allowed to nominate their own officials, subject to the approval of the district officer. They will also be allowed to build their own jails, subject to the approval and surveillance of the British authorities, and to retain the penal fines inflicted under their orders. The city of Nadaon will be subject to the Rajah's jurisdiction, but he will, of course, be responsible for the expenses incidental to the abandonment of the unfinished Tahsildarí.

4. Rajah Tej Singh and Sirdar Shamsher Singh are also mentioned separately, as, in all probability, the jurisdiction to be exercised by them will be more extensive than that generally conferred.

5. Adverting to paras. 3, 4 and 5 of your letter No. 238, dated 9th instant, I am to state, although appeal to Deputy Commissioner from the orders of the Chiefs in all departments is provided for, yet the Deputy Commissioner will not have the power of pronouncing a reversal of sentence until he has referred the proceedings for the opinion of the Commissioner. A similar course will also be observed whenever the Deputy Commissioner shall consider a censure of the proceedings of a Chief called for : he is not competent to communicate such censure himself. The Lieutenant-Governor relies on the Deputy Commissioners for the kind and considerate treatment of the Chiefs associated with them in territoral administration, and for aiding in every way the success of the present experiment. Each Chief should be inducted into his new duties by the Commissioner in person, or, if from any cause he is unable to attend, by the Deputy Commissioner ; and both he and the Commissioner should be ready to afford such advice and information as may mitigate the difficulties of his new posision.

6. It is of importance that the Chiefs should have means at hand of assuring themselves of the nature and extent of their powers. His Honor requests that you will have a brief and plain manual drawn up in the vernacular, explaining the duties required of them, and the returns to be furnished by them in the Criminal, Civil, and Police departments The Financial Commissioner will be requested to prepare a similar manual for the Revenue portion of their functions.

7. Except in the cases of the Rajahs of Nadaon and Síba, all fines inflicted by the Chiefs will be paid into the Government treasury. His Honor will not, at present, decide the question whether or not they shall appoint their own officials and police. Our native civil establishments are to be strictly prohibited from interfering in the jurisdictions of the Chiefs to whom judicial powers have been given.

No. 1691, dated 5th June 1860, from Secretary to Government of India, Foreign Department, to Secretary to Government Punjab.

Your letter No. 326, dated the 26th ultimo, and its enclosures, relative to the investiture of certain Chiefs of the Punjab with Revenue and Magisterial powers has been read by the Governor General in Council with great satisfaction.

2. The proceedings of the Lieutenant Governor are entirely approved.

NOTE.—Powers were conferred on other Chiefs by subsequent notifications issued from time to time, and have in some instances been withdrawn. The general principles under which they have been granted are those settled in the preceding correspondence.

Criminal powers have been conferred anew under the Criminal Procedure Code, and doubts having existed as to the effect of Act XIX of 1865 upon the Civil powers of Jagirdars who had been invested with such powers, the local Government has been enabled by Act III of 1868 to invest any person with the powers of Assistant Commissioner or of Tahsildar.

A manual for the use of Chiefs invested with Judicial powers was prepared by the Personal Assistant to the Judicial Commissioner, Mr. Thornton, and was approved by the Lieutenant Governor in his Secretary's No. 798, dated 2nd July 1860. The Lieutenant Governor's approval to a manual prepared for the use of a special class of officers cannot however be considered to have given the force of law to the rules contained in it, and after the introduction of the Penal Code and Criminal Procedure Code, a revised manual was issued by the Judicial Commissioner subsequent to the passing of the Indian Councils' Act.

The special jurisdiction to be conferred on Rajah Tej Singh and Sirdar Shamsher Singh was defined in the following correspondence:—

Extract from No. 301, dated 11th February 1861, from Secretary to Government of India, Foreign Department, to Secretary to Government Punjab.

3. The last report (dated 8th November 1860,) of the Lieutenant Governor on the working of the system under which Magisterial and Revenue powers have already been given to certain Sirdars, although an incomplete one, has shewn that such powers are exercised usefully to the Government and acceptably to the people; and His Excellency is quite willing that, in the case of Rajah Tej Singh and Sirdar Shamsher Singh, the powers should, under the peculiar circumstances of the case, be made larger.

4. The Governor General thinks, however, that it will be better that these powers should be exercised subject to the Commissioner in all matters, and not only in the matter of heinous crimes. This will be the safer course in the first instance. If is always easy to extend the powers, though not so easy to put new limits to them,—not at least without implying distrust, and causing discouragement.

No. 241 dated 6th April 1861, from the Secretary to Government Punjab, to Financial Commissioner Punjab.

To Government, Foreign Department,
No. 301 dated 11th May 1860.
Repy No. dated February 1861.

I am directed to send you copy of extracts of correspondence relating to the position of Rajah Tej Singh and Sirdar Shamsher Singh, together with the following instructions.

2. The Lieutenant Governor will be glad to hear that the consolidation of the jagirs has been effected. That of Rajah Tej Singh should include the Fort of Syalkot, but not the town or Cantonments: with these exceptions, however, the jagir may be grouped round Syalkot It is understood that the villages assigned to Sirdar Shamsher Singh will be consolidated round Rajah Sansi. The Chiefs might be put in possession as soon as you may deem expedient, and on receiving your report regarding the consolidation of the jagir powers conferred upon them, they will be gazetted.

Copy of a letter No. 329 dated 1st June 1861, from the Secretary to Government Punjab, to the Judicial Commissioner for the Punjab.

The Financial Commissioner having reported that the jagirs of Sirdar Shamsher Singh, Sindhanwala, have been consolidated, requests he will instruct the Commissioner to induct the Sirdar into his new duties of Jagirdar Magistrate The Sirdar will exercise the powers of a Deputy Commissioner in all Departments, and must procure the confirmation of the Commissioner to all orders given by him in excess of those powers. The Commissioner must at first exercise a close supervision over the Sirdar, but he should do so with judicious consideration.

XVIII.—JUDICIAL POWERS OF THE NEGI OF LAHAUL.

Extract paras. 1 to 5 of No. 70 dated 25th May 1861, from Commissioner Trans-Satlaj States, to the Secretary to the Government Punjab.

1. Tara Chand, the Negi of Lahaul, came to pay his respects to me at Sultanpur ten days ago. The passes which separate Lahaul from Kullu are closed for about six months in the year, and during this time all communication with the outer world is stopped. There is no police or revenue establishment whatever in that wild region; and the language of the people is wholly unintelligible to inhabitants of other British territory, except Spiti. The disputes of the inhabitants of Lahaul that occur during the winter months are allowed to lie over till the summer, when the litigants make their appearance at the Tahsil at Sultanpur, should they not, as is very commonly the case, have procured a decision from the Negi. The Tahsildar, on any case coming before him, is obliged to employ an interpreter. The people are wild, but very truthful.

2. I have the honor to state my opinion that it would be very desirable to invest Negi Tara Chand with police and judicial functions He is very influential, and although there is a faction in Lahaul unfavorable to him, I have no doubt, from what I have heard from time to time, that the people look up to him and would, in a vast majority of cases, respect his decision.

3. I would recommend that he be empowered to seize criminals, and to exercise a police control similar to that conferred on Chaudhris in some of the Punjab plain districts; that in the Criminal Department he have the powers assigned to Tahsildars of the first grade, where imprisonment is necessary. I see no reason why he should not be allowed to confine the culprits in some suitable place, the selection of which may be left to him; and I would recommend that he be allowed to appropriate all the fines inflicted to his own use, a statement of the fines and of the punishments being sent in once a year.

4. In Civil and Revenue cases he might be allowed the power to decide where the value of the suit was not more than Rs. 10. No stamp paper should be required and no fees.

5. When a European Assistant is residing in Kullu, appeals from the Negi's orders might be to him, otherwise to the Tahsildar of Sultanpur.

No. 482 dated 24th June 1861, from the Secretary to Government Punjab, to the Commissioner and Superintendent Trans-Satlaj States.

In reply to his No. 70, dated 25th ultimo, sanctions his proposal to invest Tara Chand, Negi of Lahaul, with Judicial and Revenue powers in that tract, but states that the Lieutenant Governor is averse to allow the Negi to appropriate the fines inflicted by him.

His Honor however agrees to the yearly average of fines being given to the Negi as a donation annually.

NOTE.—Appeals from the decisions of the Negi of Lahoul in Civil cases, have been provided for by Act IV of 1870, which enables the Assistant Commissioner in charge of the Kullu division of the Kangra District to hear such appeals. The Negi now exercises Civil powers up to Rs. 100 under Act III of 1868, and Criminal powers under the Criminal Procedure Code, and it appears therefore to be doubtful whether the order of 1861 has not been entirely superseded.

XIX.—LIST OF RULES RELATING TO POWERS AND JURISDICTION OF COURTS OMITTED, AS NOT NOW IN FORCE, AND OF NO PRESENT INTEREST.

Government of India No. 1753, dated 20th September 1849, to Board of Administration, authorizing modification of para. 28 of No. 418 dated 31st March 1849, so as to give two members of the Board of Administration the power of passing sentence of capital punishment or transportation for life, in dissent from the Commissioner.—*Superseded by order abolishing the Board, and appointing a Chief Commissioner.*

Government of India No. 1968, dated 11th October 1849, to Board (printed in Board's Judicial Circular No. 634 dated 19th October 1849,) extending the power of the Board and of Appellate Courts in the Punjab in criminal cases.—*Superseded by Criminal Procedure Code.*

Government of India No. 3661, dated 25th November 1851, to Board. Powers of Extra Assistant Commissioners. —*Superseded by Government letter No.* 1514, *dated* 12*th April* 1854. Now see Criminal Procedure Code and Act XIX of 1865.

Government of India No. 209, dated 13th February 1852, to Board, vesting in the Board a discretionary power of re-

turning the value of the stamps filed in civil suits in special cases.—*Superseded by Stamp Act of* 1860, *if not obsolete before the introduction of that Act.*

Government of India No. 1787 dated 13th March 1851, to Board, authorizing Mr. John Lawrence, during his presence in the Peshawar valley, to try and dispose of cases punishable with death pending there.—*Temporary.*

Government of India No. 4446, dated 21st October 1853, authorizing Chief Commissioner, while in Peshawar, to take up and dispose of criminal cases, and pass sentence of capital punishment, where necessary, without reference to the Judicial Commissioner.—*Temporary.*

Government of India No. 3721, dated 25th August 1854, investing Chief Commissioner with judicial powers to sentence capitally in cases of emergency, without reference to the Judicial Commissioner.—*Superseded by Criminal Procedure Code, if not previously obsolete.*

Government of India No. 1515, dated 12th April 1854, to Chief Commissioner, empowering Commissioner of Peshawar to try all sessions cases of the Kohat district upon the Magistrate's record, returning it for amendment if necessary.—*Superseded by Criminal Procedure Code.*

Government of India No. 3556, dated 18th August 1854, delegating to the Chief Commissioner the power of disposing, under Act IV of 1849, of the cases of persons acquitted of criminal charges on the ground of insanity. Also Government of India No. 4398 dated 9th November 1858, (printed in Judicial Commissioner's Circular No. 119 of 1858,) investing Judicial Commissioner with the same power.—*Superseded by Criminal Procedure Code.*

Government of India No. 4169 dated 8th August 1856, to Chief Commissioner, authorizing investment of Settlement Officers and Assistant Settlement Officers with Criminal jurisdiction over their own establishments and others, in regard to offences in connection with the operations of the Settlement. —*Superseded by Criminal Procedure Code.*

Punjab Government No. 3351 dated 27th April 1859, (Military Department,) to Judicial Commissioner.—Judicial powers of Commandants, Punjab Irregular Regiments,* &c. This

* The powers of Captains of Police, which are also referred to, have been superseded by the Criminal Procedure Code, and by the extension of Act V of 1861.

letter appears to refer to the rules made by the Chief Commissioner and published in his orders in the Military Department, No. 115, dated 14th September 1857, *(p. 29 of Punjab Government Gazette for* 1857, *)* and No. 122, dated 28th January 1858, *(p. 26 of Punjab Government Gazette for* 1858, *)* and it would seem that the powers thus conferred were sanctioned by the Supreme Government.—*Superseded by Criminal Procedure Code, and by Act XXIX of* 1861, *(Native Articles of War)*. Now see provisions as to summary Courts Martial in Act V of 1869, *(Native Articles of War)*.

Punjab Government No. 875, dated 17th October 1859, to Judicial Commissioner, approving of rules drawn up for guidance of Salt and Customs Officers invested with Criminal powers.—*Superseded by Criminal Procedure Code.—Vide* Notification published in *Punjab Government Gazette*, dated 12th April 1862.

Notification No. 370, dated 28th May 1861, establishing Small Cause Courts, subject to the approval of the Supreme Government.—*The Courts were afterwards constituted under Act XLII of* 1860.

ADDENDUM TO CHAPTER I.

ADMINISTRATION OF THE CIS-SATLAJ AND HILL STATES.

(*Vide Note, ante p.* 30.)

Resolution of the Governor General of India, in the Foreign Department, dated Firozpur, the 3rd January 1846.

The events and operations of the last few weeks have rendered necessary an extensive change in the constitution of the Agency to the Governor General, North West Frontier. The superintendence, management, and settlement of the country sequestrated from Maharajah Dalip Singh has to be provided for, and it is, in the opinion of the Governor General, expedient that the duties appertaining to the States and territory on the left bank of the Satlaj should be separated from those connected with the Lahore side, and with the Foreign relations of the Agency. It is necessary, in the opinion of the Governor General, that, for the superintendence and control of the separate duties, different officers, independent of each other, should be appointed.

It is also expedient that the Hill States at present under the management of the Hon'ble J. C. Erskine, at Simlah, should be separated from the Agency in the plains.

* * * * * *

The Governor General has therefore been pleased to resolve that the following arrangements shall be made, to have effect from this date, for the conduct of the duties of the Agencies, Cis and Trans-Satlaj.

Major F. Mackeson, C. B., to be appointed Commissioner for the territory sequestrated from Lahore by the proclamation dated

13th December 1845, and Superintendent of the Affairs of the Protected Sikhs, and the lapsed territory heretofore attached to the Agency, North West Frontier. The Commissioner and Superintendent will be in direct communication with the Office of the Secretary to Government of India on all questions of a political character, and all business connected with the sequestrated territory will, for the present, be under the control of the Governor General through the aforesaid Office. On all matters connected with the Judicial and Revenue Departments in the lapsed States, the Superintendent will be under the control of the Lieutenant Governor North Western Provinces. The salary of this office will be Rs. 2,500 per mensem.

A Civil Commissioner will be appointed for conducting the Civil and Revenue Administration of the lapsed States under the orders of the Lieutenant Governor North Western Provinces, and this Officer will be expected, when the state of the business may require such a measure, to assist the Superintendent by holding sessions and trying criminal cases in the lapsed States. The salary of this Office will be the same as that of a Civil and Sessions Judge in the Provinces.

For the subordinate Agencies it is necessary that two principal Assistants should be appointed, the one for the charge of Kaithal and Ladwah, with such estates as it may be found expedient to attach to that Office; and the other for Ambalah and its dependencies.

* * * * * *

An Assistant for the charge of Firozpur and its dependencies, and one for that of Ludhianah, will be necessary,—the salary of these Officers to be, as heretofore, Rs. 700 each.

* * * * * *

The Governor General is pleased to appoint Major H. M. Lawrence to be Agent to the Governor General for the Foreign relations of the North West Frontier, and affairs connected with the Punjab.

* * * * * *

The Hon'ble J. C. Erskine will be the Superintendent of the Hill States, now under his charge as Sub-Commissioner, and will be in direct communication with the Office of the Secretary to Government, Foreign Department, in respect to their political relations, and all questions connected with the Lahore Frontier, and will, as heretofore, be under the control of the Lieutenant Governor, North Western Provinces, in respect to the internal administration of the above States. The Governor General is pleased to assign a salary of Rs. 2,000 per mensem to the Hon'ble J. C. Erskine, for the above duty.

* * * * * *

No. 74, dated Firozpur, 13th January 1846.

Ordered that a copy of the foregoing be communicated to the Secretary to Government, North Western Provinces, Majors Lawrence and Mackeson, and to the Hon'ble Mr. Erskine, also to the Financial Department for such further orders as may appear necessary.

CHAPTER II.

CRIMINAL LAW AND POLICE.

In para. 13 of the despatch constituting the Board of Administration No. 418, dated 31st March 1849, it is observed (under the heading of "*Penal Code*") that "with respect to the introduction of our system of Police,* the Governor General has no wish that our voluminous laws should be introduced into this new country. The several abstracts of our Regulations may be considered to contain sufficient for the guidance of our Magistrates, to whom, necessarily, a larger discretion must be left than they have in our older provinces."

The abstracts of the Regulations which had appeared before 1849 were very numerous—(see the list given at pp. clxiv to clxviii of the introduction to Morley's Analytical Digest, published in 1850); and as none of them is referred to by name, and a larger discretion is reserved to the Magistrates than in the provinces for which they were originally written, this order cannot be considered as investing any of them with the character of law, and it is expressly stated that the Regulations themselves were not to be introduced. The true interpretation of the order evidently is, that Magistrates were to be guided by the principles and spirit of the Regulations, so far as applicable to the circumstances of the Punjab, and that they would find them sufficiently stated in the ordinarily received text-books, without being under the necessity, in general, of referring to the Regulations † themselves.

Of these text-books, the best known in the Punjab appear to have been Skipwith's Magistrate's Guide, of which the first edition had appeared in 1813, and which reached a third edition in 1849; Tucker's Note Book, the first edition of which appeared in 1858, and the second in 1859; and Beaufort's Digest, of which, it seems from the introduction to Morley's Analytical Digest, part had appeared as early as 1846, though the title page to the first edition bears the date of 1850.

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* This word was evidently intended to include Criminal Law.

† On the principle laid down by the Chief Court in *Oram* v. *Hawkes*, (*Punjab Record for* 1868, *Civil Judgments*, *p.* 52) the word Regulation here must be taken to include Act.

The introduction of the spirit of the Regulations relating to Criminal Law and Police by para. 13 of the Government despatch, must be taken as subject to the instructions given in paras. 6 and 7, that native institutions and practices should be upheld, so far as consistent with the distribution of justice to all classes, and that "the local laws which regulate the tracing of criminals and the responsibility of landholders for their pursuit and apprehension" should continue to be enforced.

Track Rules.

The local laws here referred to were no doubt meant to include customs such as that "of tracing thieves by their footmarks, and rendering the villages to which the tracks are carried responsible for the amount of the stolen property, the prevalence of which in the Cis and Trans-Satlaj States had been brought to the notice of the Governor General by letter No. 117, dated 24th June 1847, from Commissioner Trans-Satlaj States, and of which he had sanctioned the continuance, under certain limitations, in his Secretary's letters No. 1833, dated 9th August 1847, to the Commissioner Trans-Satlaj States, and No. 1834, of the same date to the Commissioner Cis-Satlaj States. That the same custom prevailed in the Punjab is stated in the Board's Judicial Circular No. 184, dated 22nd June 1849, (*page* 5 *of Board's Judicial Circulars*) and they directed that it should be maintained, the rules regarding it, sanctioned by Government for the Cis and Trans-Satlaj States, being observed.

Slaughter of Kine.

Soon after annexation an important question arose as to the effect of the change of Government upon the former law of the Province. The slaughter of kine had been regarded by the Sikhs as an offence of the most heinous character, and it had been punished by them with the utmost rigor wherever their authority extended. At Multan, a complaint having been made of killing cows against some of the Muhamadans, who formed the great bulk of the population of the district, though the city contained a large number of Hindu traders, it was held by the Assistant Commissioner that the prohibition against killing cows was still in force, but as his view gave great dissatisfaction to the Muhamadans, he made a reference to the Board for instructions. The Board held that the prohibition could not be maintained consistently with the spirit of the Governor General's Proclamation of the 29th March 1849, and laid down rules to regulate

the slaughter of kine in such a manner as to prevent needless offence being given to the Hindus. The correspondence was forwarded by the Board to the Governor General, who, in his Secretary's No. 175, dated 25th April 1849, expressed his full approval of the regulations issued by the Board on this subject, and directed this to be intimated to all the officers subordinate to the Board, and that they should be informed that the Governor General would hold them "responsible for measures being taken to ensure the strict observance of the regulations by all, whether Europeans or natives." The correspondence was accordingly circulated by the Board to all Civil Officers in the Punjab proper, with their Circular (not printed) No. 83, dated 5th May 1849. Shortly after, with their letter No. 149, dated 21st May 1849, to Commissioner Cis-Satlaj States, communicating the orders of the Governor General on a petition from the inhabitants of Rupar, they annexed copy for his guidance in that and similar cases.

Arms Rules.

In para. 62 of the Government despatch, No. 418 dated 31st March 1849, the Board of Administration had been instructed that the disarming of the people, then in course of completion, was to be regarded as an important preventive measure of police, and that the Governor General had every confidence that it would be attended with the happiest effect. They shortly after submitted, for the sanction of the Governor General, a proclamation prohibiting the manufacture, sale, or possession, without license, of arms or munitions of war, between the Indus and the Biás, with the exception of the Hazárah District. The Governor General sanctioned the issue of the proclamation, amendments being made to supply certain defects which he pointed out, and it was issued by the Board with their Judicial Circular No. 212, dated 2nd July 1849, addressed to the Commissioners of Lahore, Jehlam, Multan and Leia, *(p. 8 of Board's Judicial Circulars)*, with the necessary modifications. The proclamation, as amended, received the approval of the Governor General in Secretary to Government's letter No. 1279, dated 25th July 1849, which was also circulated with the Board's Judicial Circular No. 317 of 1849, *(p. 22 of Board's Judicial Circulars)*.

In 1854, under instructions from the Governor General in Council, the Commander-in-Chief laid down rules for the possession, sale, and transfer of arms, by native soldiers

serving in the Punjab States, which were published in General Orders on the 27th March, and were circulated by the Judicial Commissioner of the Punjab to all Commissioners, except Cis and Trans-Satlaj States, with his Circular No. 28, dated 11th April 1854.

In 1855, the Chief Commissioner of the Punjab proposed to Government to interdict the *carrying* of arms in the Trans-Indus districts and in Hazárah, and this was sanctioned by the Governor General as an experimental measure in Secretary to Government's No. 12, dated 17th March 1855. A proclamation was accordingly issued, prohibiting the carrying of arms in the Trans-Indus territory and Hazárah, after the 1st July 1855, except by persons licensed to bear arms, and by certain exempted classes. That proclamation does not appear to have been submitted to Government for approval. The continuance of the prohibition was sanctioned by Government of India's No. 3440, dated 20th June 1856, to the Chief Commissioner.

Secretary to Government's No. 4529, dated 24th December 1855, to the Chief Commissioner, had previously conveyed the sanction of the Governor General in Council to the prohibition of the export of saltpetre beyond the North West Frontier, and had authorized the insertion of a clause to that effect in the proclamation.

On the passing of the Arms' Act of 1857, (No. XXVIII of that year) Sections 7 to 23, and 36, were extended to the Punjab under the orders of the Governor General in Council, but this was held not to supersede the orders relating to arms which were previously in force, except in so far as they were modified by the provisions of the Act. The operation of the Act was not limited to the districts already disarmed, and in 1857 the disarming of the people had been extended by order of the Chief Commissioner to the Cis and Trans-Satlaj districts, except those of Simlah and Kangra.

In 1859, the Lieutenant Governor of the Punjab, by his Secretary's No. 982, dated 3rd December 1859, to Judical Commissioner, extended the orders prohibiting the carrying of arms in the Trans-Indus territories to the Kangra district.

In the same year, the Lieutenant Governor ruled *(in his Secretary's No.* 210, *dated* 15*th March, to the Judicial Commissioner)* that bayonet-scabbards and other military accoutre-

ments were included under the term 'munitions of war' in the prohibition contained in the Proclamation of 1849, and that vendors of military accoutrements should be required to take out a license.

In 1860, the present Arms' Act, XXXI of 1860, was passed. It is provided in Section 51 of this Act that "nothing in this Act shall be construed to alter or affect the provisions of any law or other regulation for the time being in force relating to license."

Under this Section, the Chief Court, in reply to an enquiry on the subject made by Government, expressed their opinion that it was open to the Government, previous to the operation of the Indian Councils' Act, to rescind any of its orders, and that it must be taken to have done so "with reference to the system of licensing to carry, sell, or manufacture arms, as regards all kind of arms prohibited by Act XXXI of 1860, which travelled over the greater part of the subject-matter of the previously existing rules. So far, however, as that subject-matter was not traversed by the Arms Act, the Punjab Government appear to have adhered to the old rules. This adherence would have effect, as soon as the Indian Councils' Act became law, to give validity to all that was so retained and treated as still in force. The Circular of 18th March 1859 was so treated."

The Circular with reference to which this opinion was given, was that which was issued by the Judicial Commissioner in accordance with the Government order of 15th March 1859. It will be observed, however, that the opinion is not confined to holding this order to be still in force. It extends to all orders on subjects connected with arms or munitions of war, where the same subjects were not dealt with by the Arms Act of 1860, and the orders were treated as still in force after its introduction.

Female Infanticide.

The general prevalence of female infanticide among the members of certain Rajput and Sikh tribes and families had attracted attention in the Cis-Satlaj States at a very early date, and considerable success had attended the measures taken to suppress the crime. On the annexation of the Trans-Satlaj territory it was found that it prevailed to a considerable extent there, and the Governor

General, in a letter from the Secretary to Government, Foreign Department, to the Agent, North West Frontier, No. 303, dated 8th August 1846, directed that stringent measures should be adopted to put a stop to it. After the Punjab was brought under British rule it was found to be no less necessary that special measures should be resorted to in other parts of the province to check this unnatural practice, and on steps being proposed to this end by the Chief Commissioner, the Governor General in Council *(in Secretary to Government of India's No. 3894, dated 7th September* 1853*)*, approved of them and directed others to be taken. In accordance with the instructions thus conveyed, a proclamation was at once issued, making known the orders given by the Governor General in Council. The punishment of the crime is of course provided for by the general law, but in addition to that punishment other penalties are provided in certain cases by the orders of Government, and there seems no reason to doubt that these have still the force of law.*

Cantonment Rules.

In 1854, rules drawn up by the Superintendent of Cantonment Police, North Western Provinces, "for the administrationof Criminal Justice and the management of Police in Military Cantonments" were, with one slight alteration, ordered by the Governor General in Council to be put in force in the Punjab, in Government letter No. 1198, dated 24th March, to the Chief Commissioner, and by General Order No. 339, dated 31st March 1854, of the Governor General in Council, the Cantonment-Joint Magistrates of the Punjab were placed under the orders of the Superintendent. These rules having been superseded by the Criminal Procedure Code, and by the extension of Act XXII of 1864 to all Military Cantonments in the Punjab, under the provision made for that purpose in Section 40, it is not necessary to include them in the present collection.

Remission of Sentences.

Certain rules regarding the remission of sentences of prisoners for good conduct received the sanction of the Government of India in 1854, and acquired the force of law under the Indian Councils' Act. These have lost much of their importance by the passing of Act XXVI of 1870.

* The local Government is now empowered by Section 2, Act VIII of 1870, to make rules upon this subject, and to alter them from time to time, subject to the provisions of Section 3 of that Act.

Changes in the Criminal Law in 1859.

In 1857, the mutiny of the native army, and the disturbed state of several of the districts under the Punjab administration which was caused by it, made it necessary to take stringent measures for the preservation of order, and, in order to avoid overcrowding the jails, to substitute other punishments for imprisonment to an extent which the Regulations did not contemplate. After order had been restored, the Judicial Commissioner considered that as, in many parts of the Punjab, the written law had been widely departed from, and as its defects were numerous, and had been admitted by Lord Dalhousie in 1854, in re-establishing it the opportunity should be taken to remove these defects, and he, accordingly, at the close of 1858, submitted a Minute to the Chief Commissioner, proposing extensive changes in the Criminal Law and Procedure, principally with reference to the punishments to be awarded for offences, and the mode of carrying them out. In one instance it was proposed to declare an act for the punishment of which the law did not previously provide to be an offence, namely, the introduction of a girl of tender years into a brothel. All the proposed reforms were approved of by the Lieutenant Governor, in Secretary to the Chief Commissioner's letter No. 1, dated 4th January 1859, to the Judicial Commissioner, by which the Judicial Commissioner was authorized to issue rules embodying them in the manner he proposed, "subject to the final approval of the Supreme Government," which would be solicited. The Judicial Commissioner's proposal had been to circulate his Minute "for information and guidance, and to direct that it be acted upon until receipt of final orders from Government, as to what is to be the law in future."

Sir John Lawrence's appointment to the office of Lieutenant Governor dated from 1st January 1859, and therefore the sanction given by him in this letter to the rules proposed by the Judicial Commissioner appears to amount to a making of rules which would have the force of law under the Indian Councils' Act, until disallowed by the Governor General.

The rules were circulated by Judicial Commissioner's Book Circular No. V—14, dated 9th February 1859, and ordered to be at once carried into effect. An Epitome of the Penal law of the Province, as modified, was annexed to the Circular, but this does not seem to have acquired the force of law by any order

of the Lieutenant Governor. A revised Epitome was substituted by Book Circular No. LXII—118, dated 23rd September 1859, on the Judicial Commissioner's authority, and, finally, a Manual of Criminal Law, as administered in the Punjab and its Dependencies, by Mr. Aitchison, was published under the authority of the Punjab Government, and circulated for the information and guidance of Judicial Officers, with Judicial Commissioner's Book Circular 64—126, dated 8th December 1860.

The authority for the publication of this work was conveyed in Secretary to Punjab Government's No. 31, dated 20th July 1860, to the Judicial Commissioner. It has sometimes been referred to as if it had received the force of law under the Indian Councils' Act, but there is nothing in the order of Government* to give it any authority greater than that of any approved text-book, nor does the Manual itself assume to be more than a compilation from the Regulations of Government, from other works, and from Circulars issued from time to time in the Punjab.

The modification of the Criminal Law proceeded at a rapid rate in 1859 and 1860.

By Judicial Commissioner's Book Circular No. XV—34 dated 30th March 1859, a limitation was placed upon appeals in Criminal cases, under the authority of Government of India No. 585, dated 20th January 1859, to the Lieutenant Governor.

By letters No. 257, dated 31st March 1859, and No. 349, dated 2nd May 1859, from Secretary to Lieutenant Governor to the Judicial Commissioner, widows living in concubinage and their seducers were made amenable to the law against adultery, and provision was made for the guardianship of widows, and for restraining them from contracting unsuitable marriages.—*Vide* Judicial Commissioner's Book Circulars Nos. XX—43 dated 8th April, and XXV—55 dated 6th May 1859. This alteration in the law was however disallowed by the Governor General in Council (*No.* 3075, *dated 27th May* 1859, *from Secretary to Government of India, to Secretary to Government, Punjab*), and the Lieutenant Governor was requested to cancel the instructions

* The Lieutenant Governor's approval is expressed in the following terms (para. 2):—"The work appears to the Lieutenant Governor to have been compiled with great care and ability. It is calculated to be of great service in the administration of the Criminal Law, and should form one of the examination tests for Assistant Commissioners for 1861 and afterwards."

conveyed in his Secretary's letters of 30th March and 2nd April to the Judicial Commissioner, on the ground "that the Local Government had no power to alter the law, or to punish any act which the law had not made a criminal offence." If he was of opinion "that incontinence in widows should be punished as adultery" in the Punjab, he was told that he "should submit a project of law to that effect for the consideration of the legislature." The Lieutenant Governor's orders were accordingly cancelled by Judical Commissioner's Book Circular LXX-131 dated 27th October 1859. I do not think they can be considered as having been law from the time that the Government of India letter disallowing them reached the Punjab Government.

By Punjab Government letter No. 466, dated 7th June 1859, to the Judicial Commissioner, jurisdiction was conferred upon officers exercising the full powers of Magistrate to try cases of perjury, and punish by fine, not exceeding Rs. 200, commutable to 6 months' imprisonment—*(Judicial Commissioner's Book Circular XXXV—69 dated 8th June* 1859*)*.

All the changes in the Criminal law above noticed are now superseded by the Penal and Criminal Procedure Codes, which came into force on the 1st January 1862. Those of them, however, which relate to substantive law, are still applicable in regard to offences committed before that date.

But there were some modifications of the Criminal Law during 1859 which were not superseded by the Codes.

These were the extension of Act XIII of 1859 under the provisions of the Act, which does not belong to the present subject; the rule requiring vendors of military accoutrements to take out stamped licenses, which has been noticed already; the rule authorizing the infliction of flogging as an alternative for fine, when not realized, for offences against Section 1 of Act XVIII, 1853, which Act has now been repealed by the introduction of Act XXII of 1864 into all Military Cantonments in the Province; and the rules for the disposal of cases of keeping common gaming houses and of public gambling. The latter were issued under the orders of the Lieutenant Governor, conveyed in his Secretary's No. 1027 dated 27th December 1859, to the Judicial Commissioner. They have now been to a large extent superseded by the passing of Act III of 1867 on the same subject, and the introduction of the whole of the provisions of that Act into a large number of towns;

but as only the 13th, 17th, and 18th Sections are generally applicable, the rules made in 1859, so far as not inconsistent with those Sections, remain in force in places to which the remaining Sections have not been extended.—*(Vide 1st Volume of Smyth's Acts applicable to the Punjab, page* 333.*)*

Changes in the Criminal Law in 1860.

In 1860 there were several rules made relating to matters of police. By Punjab Government letter No. 220 dated 14th April 1860, to Judicial Commissioner, the admission of armed parties of natives, exceeding fifty in number, into walled cities without the special sanction of Government was prohibited, except when the ordinary retinue of a Native Chief exceeded this number, in which case the Commissioner should exercise his discretion as to the number to be admitted, reporting to Government.—*(Judicial Commissioner's Book Circular No. XII—29, dated 17th April* 1860.*)*

In the course of the year a new organization of the Police was introduced into the Lahore and part of the Amritsar Divisions, under orders from the Government of India, conveyed in letter No. 1659 dated 7th May 1860, to the Punjab Government, and subsidiary orders issued by the Punjab Government, in letters No. 305, dated 28th May 1860, and No. 316, dated 1st June 1860, to the Judicial Commissioner. This organization was extended to other parts of the Punjab, the Derajat excepted, by Resolution of the Punjab Government No. 3, dated 4th February 1861, in the Police Department, published in the *Punjab Gazette* of the 6th February. These orders have been deprived of their importance, except as authority for what was done under them at the time, by the extension to the Punjab, except the Peshawar and Derajat Divisions, of Act V of 1861, by Notification No. 971 dated 15th May 1861, published in the *Calcutta Gazette* of the 18th May 1861.

Police Chaudhris, or Honorary Police Officers.

One subject only, referred to in Secretary to Lieutenant Governor's letter No. 316 dated 1st June 1860, requires further notice. In para. 4 it was stated that "in preference to detached chaukis, His Honor would be willing to commit to landholders of known weight and responsibility, the duty of reporting crime within a defined tract of country." A suggestion was added that the experiment should be tried in the Lahore District. Accordingly, an arrangement was proposed by which the charge of two police sub-divisions of the Lahore District was made over

to a respectable landholder resident in each sub-division. This arrangement was approved by Punjab Government letter No. 572, dated 15th September 1860, to the Judicial Commissioner; and in a subsequent letter, No. 61, dated 26th March 1861, circulated to Commissioners by Judicial Commissioner's Circular No. 38, dated 30th March, the introduction of similar arrangements in other localities, under the superintendence of the Judicial Commissioner, was recommended. Finally, in Punjab Government No. 161 dated 18th May 1861, to the Judicial Commissioner, circulated by him with his Book Circular XLI—94 dated 31st May 1861, a form of procedure was prescribed for the nomination and appointment of Police Chaudhris or Honorary Police Officers.

Village Chaukidars.

By Punjab Government No. 560, dated 10th September 1860, the Judicial Commissioner was authorized to try the experiment of dispensing with Village Chaukidars in the smaller villages of certain thanas of the Lahore and Firozpur districts, where the character borne by the village was good,—the headmen undertaking the responsibility for the report and detection of crime, and for the watch and ward of their villages. Similar arrangements were sanctioned for the villages of the recently annexed Balabgarh Parganah by Punjab Government No. 772, dated 21st November 1860, to the Judicial Commissioner; and for selected villages of good character in the Delhi Division generally, by Punjab Government No. 14, dated 8th January 1861, to the Judicial Commissioner.

In paras. 3 and 4 of the orders of the Punjab Government on the Report on the Administration of Criminal Justice in 1860, *(No. 226, dated 11th April 1861, to the Judicial Commissioner,)* the following reference occurs to the measures above noticed :—

3. The Lieutenant Governor contemplates with pleasure the success which is reported to have attended the dismissal of the chaukidars from the villages in the Lahore and Dehli Divisions, and stricter enforcement of the responsibility of the communities for the report and detection of crime. His Honor believes that no inconvenience will accrue from this return to a native institution, which preserves the liability of each petty municipality for the efficiency of its own watch and ward, and interests all the members in the prevention of crime. The appointment of chaukidars has been a source of great expense in agricultural villages, and has tended to weaken the corporate responsibility of the proprietors to the State, the obligation of which they themselves would never dispute, and which it

should be our aim to uphold as the fulcrum of all our political, and especially of our police, arrangements.

4. The Lieutenant Governor is disposed to think that this responsibility will be actively exacted under the plan which you report to have been partially carried out in the *Bar* or waste tract of the Lahore Division; and which devolves upon a selected zamindar or chaudhri (without any judicial powers,) the duty of reporting and detecting crime within a defined circle of villages. The influence and local knowledge of such a chaudhri should be of great value to the regular police. The village landholders will be represented by one of their own class acquainted with all their circumstances and feelings, and the police will be aided by one who has many threads of information not available to themselves. The substitution of such a man for the Jemadar of a chauki must be equally acceptable to the population and advantageous to Government, whilst it brings into public life and prominence the leading members of an influential yeomanry. In the selection of the Chaudhris, and in preventing the growth of any feeling of antagonism between them and the village communities, consequent on their relative positions, the district officers will have full scope for the exercise of their penetration and tact.

Conditional Pardon.

Judicial Commissioner's Book Circular V—13 dated 23rd February 1860, issued on the authority of Punjab Government letter No. 86, dated 21st February, in anticipation of the passing of the Criminal Procedure Code, then under the consideration of the legislature, gave powers of conditional pardon to Magistrates in certain cases. Paras. 2 and 5 of the Circular contained provisions which are not authorized by the Criminal Procedure Code. The Circular is, however, entirely superseded by Sections 209 and 211 of the Code.

Use of Inflated Skins or Buoys.

There is one order, passed in 1860, the effect of which, under the Indian Councils' Act, is very doubtful, both as regards previous orders, the authority of which it seems to recognize, and as regards a power to pass certain orders which it delegated to Commissioners. This order is contained in Secretary to Punjab Government's letter No. 174, dated 28th March 1860, in reply to Judicial Commissioner's No. 137, dated 20th March, asking whether the rules, which had been authoritatively introduced on the Indus and Lower Chanáb, relative to the use of Inflated Skins or Buoys, might be authoritatively introduced on the Satlaj, Biás and Ravi, in the divisions of the Cis-Satlaj States, Trans-Satlaj States and Lahore, in which certain restrictions had been established during the mutiny, and had never been discontinued. The reply was that "the Lieutenant Governor is of opinion that it would not be convenient to prohibit entirely the use of inflated

skins for crossing the rivers by the people generally, but that His Honor has no objection to certain restrictions being placed on the practice, according as they may be determined by the Commissioner."

The Indus and Lower Chanáb rules referred to were introduced in the Peshawar, Derajat, Ráwalpindi and Multan Divisions, by a proclamation issued by the Judicial Commissioner in May 1855, under the authority conveyed by Secretary to Chief Commissioner's No. 524, dated 17th November 1854, to his address.

In December 1863, the Judicial Commissioner ruled, on a reference from the Commissioner of Multan, that the orders issued in May 1855 were within the competence of the Executive Government and of the Judicial Commissioner, as the latter was, at the time, head of the police.

On 1st February 1867 the Chief Court ruled, on a reference from the Inspector General of Police, that the order of 1855 had not the force of law.

There can be no doubt that the Chief Commissioner had no legal authority to issue such a prohibition. But the effect of the Government letter of 1860, in which the statement of the Judicial Commissioner that the rules had been authoritatively introduced in certain Divisions was tacitly accepted, and which authorized Commissioners on the use of inflated skins, has not been considered. Would a Commissioner's order placing restrictions upon the use of inflated skins, but not prohibiting their use by the people generally, under the authority thus conveyed, be a valid order, on the ground that the instructions contained in the letter of 1860 have acquired the force of law under the Indian Councils' Act? If it would, it is time that those instructions were repealed, as their utility is questionable, and it is probable that since the Chief Court's ruling of 1867, little if any attempt has been made to carry them out.

Extradition Rules.

It is necessary to notice here one subject, the rules in regard to which I have omitted, though they have been held by the Chief Court to have the force of law.—*(The Crown* v. *Tokhá, Punjab Record for* 1870, *Criminal Judgments, page* 9.*)* This is the surrender of offenders

charged with the commission of heinous offences in Foreign States and apprehended in British territory.

In a despatch from the Honorable the Court of Directors to the Government of Madras, No. 3 dated 1st June 1836, certain rules were laid down regarding extradition of offenders charged with offences committed in British territory and apprehended in Foreign territory, or charged with offences committed in Foreign territory and apprehended in British territory. In December 1841, the Court of Directors animadverted on some orders given by the Lieutenant Governor of the North Western Province as not in accordance with these rules. The rules were, in consequence, circulated with North Western Provinces Government's Circular No. 2318, dated 3rd December 1842; * and on a reference from the Commissioner of Leiah, the Board of Administration for the affairs of the Punjab, circulated them in the territories under their control in 1849, *(Circular No. 747 dated 23rd November* 1849, *pp.* 42 *to* 44 *of Judicial Circulars of the Board of Administration).*

In a vernacular proceeding dated 28th May 1856, more detailed rules on the same subject were laid down by the Chief Commissioner, with special reference to the State of Jamu, (Kashmír), and these rules were, on the appearance of a translation of the vernacular proceeding in the *Punjab Gazette* of the 25th December 1858, declared by the Judicial Commissioner applicable to the entire Province, and to all Chiefs of Independent Jurisdiction comprised within it or conterminous with it.—*(Smyth's Acts applicable to the Punjab, vol. I, pp.* 169 *to* 173*).*

The Chief Court held that the rules thus issued by the Chief Commissioner had the force of law, as they were embodied in the Punjab Penal Code, which was published in 1860 with the sanction of the Lieutenant Governor, and were recognized by the Governor General in Council in a letter dated 28th March 1866, to the Secretary to Government, North Western Provinces, and directed that the procedure prescribed in them should be followed where different from that prescribed by Act VII of 1854.

* In a manuscript account of our relations with the Protected Sikh States, by Captain J. D. Cunningham, the author of the History of the Sikhs, which is among the records of the Commissioner of Ambálah, it is mentioned that the instructions of the Court of Directors to the Madras Government of the 1st June 1836, were declared applicable to the Cis-Satlaj States in a letter from Government North Western Provinces, to the Agent to the Governor General, North West Frontier, (Clerk,) dated the 23rd May 1842.

I cannot think that it was intended to lay any stress upon the letter of 1866, as the Indian Councils' Act would not apply to any orders contained in it. And the work which is referred to as the Punjab Penal Code, is Mr. Aitchison's Manual of Criminal Law, the adoption of which as a text-book by the Lieutenant Governor in 1860, as already stated, can hardly be considered as amounting to a making of rules, laws, or regulations for, or in respect to, the Punjab.

The Rules themselves appear to have been intended merely to embody the spirit of Act I of 1849 and Act VII of 1854. Both these are general Acts, and the latter was made for all parts of the territories under the Government of the East India Company, and the Punjab Courts were therefore bound to carry out the procedure prescribed in it strictly, in cases for the disposal of which Act I of 1849 did not provide.

In the Sanads granted by the Viceroy and Governor General of India on the 5th May 1860 to the Maharajah of Pattiálah, and to the Rajahs of Jhind and Nábha, it was prescribed that "with regard to British subjects committing crime and apprehended in" their respective territories, they should be guided "by the rules contained in the Despatch of the Honorable the Court of Directors to the Madras Government, No. 3 dated 1st June 1836." The rules thus laid down for their guidance, are the 2nd and 4th of those contained in para. 62 of the Directors' Despatch, and are as follows :—

"*Second.*—British subjects apprehended in the territory within which the offence is alleged to have been committed, are amenable to the jurisdiction of the tribunals established there."

Fourth.—British subjects charged with heinous crimes committed within the British territory, who may have taken refuge within the territory of a Native State, are to be delivered up to justice, and *vice versâ* with respect to the subjects of a Native State."

These rules are in no respect inconsistent with Act VII of 1854, but the latter clause of the 4th rule, which is of course intended for the guidance of British Courts, is superseded by Acts I of 1849 and VII of 1854.

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APPENDICES.

I.—TRACK LAWS.

Extract paras. 7 and 8 of No. 117, dated 24th June 1847, from Commissioner and Superintendent Trans-Satlaj States, to the Secretary to the Government of India, with the Governor General.

7.—On the whole I would be inclined to keep up the practice, but with the following limitations :—

I.—That under no circumstance any fine should be levied by a district officer without the express concurrence of the Commissioner.

II.—That in no case compensation should be allowed where it was not satisfactorily shewn that the sufferer had taken every reasonable precaution to secure his property from loss: any laches on his part, either on that point or in giving information to the Police, and following up the perpetrators, and doing his utmost to bring them to justice, should bar all claim.

8.—On the same principle, I would insist that where the tracks of thieves were followed, the pursuers were bound to show proof that they had fairly carried them to within reasonable proximity of the houses of the village, in the boundaries of which they eventually failed; that the traces had not been lost by accident or neglect, or the fortuitous intervention of a stream, a high road, rocky or hard ground, and the like; that the last foot marks were shewn to the inhabitants of a neighbouring village, or to other parties not interested in the case; and, lastly, I would exonerate the village where the tracks were finally lost, when, on the pursuers arriving, its inhabitants offered to allow a free and thorough search of their houses, and did their best to carry on the traces, unless it appeared that the criminals had actually passed in such numbers and in so open a manner that collusion and connivance were self-evident: even then, I would seldom or perhaps never grant full compensation.

No. 1833, dated 9th August 1847, from the Secretary to Government of India, Foreign Department, with the Governor General, to the Commissioner and Superintendent Trans-Satlaj States.

In reference to your report of the 24th June, No. 117, relative to the system of tracing thieves by their foot-marks, and rendering the villages to which the tracks are carried responsible for the amount of the stolen property, I am desired to inform you that the Governor General, approving of the practice, sanctions its continuance, but in order to check abuses, directs the observance of the rules prescribed in paras. 7 and 8 of your letter.

NOTE.—These rules were at the same time directed to be observed in the Cis-Satlaj States by Government of India No. 1834, dated 9th August 1847. The Board of Administration adopted them for the Punjab by its Judicial Circular No. 184 of 1849, but the Government authority for the track system in the Punjab is that contained in para. 7 of the Despatch constituting the Board of Administration (*ante*, p. 15).

In an opinion given by Mr. Ritchie, Advocate General, which formed the enclosure of Government of India No. 4, dated 8th October 1861, to Secretary to Government Punjab, it was held that the custom which existed in the Punjab prior to annexation, in regard to the tracking of offenders, might be upheld as not being "repugnant to natural justice," nor falling "within any of the exceptions to the general rule that the law of the conquered State remains in force till

altered by the conquerors." The argument would hardly extend to the adoption in the Punjab of the limitations which had been imposed on the system by Government in the Cis and Trans-Satlaj States.

The customs with regard to village responsibility on the Trans-Indus Frontier, and apparently also in the Rawalpindi Division, seem to have been maintained under British rule to an extent very much exceeding what is provided for in the Track Rules.—Vide Secretary to Government Punjab's No. 624 dated 24th August 1861, to the Judicial Commissioner.

The Track Rules have never been repealed. The Sirsa District has probably rules of its own, but these cannot now be traced.

The rules sanctioned for the Cis and Trans-Satlaj States have never been extended to the Dehli territory, but that a similar system existed there, is shown by the following extract from para. 2 of the letter of the Commissioner Trans-Satlaj States* to Government.

"The system of khoj or tracking thieves by their footmarks prevailed in all Native States throughout India, but in the British Territories is confined, I believe, to the Dehli Territory and this Frontier. It was at one time brought to the notice of the Court of Directors, who sanctioned the continuance of the practice."

The sanction of the Court of Directors here alluded to must have had reference to the Dehli Territory or to the Cis-Satlaj States. It is probable that the Governor General would be held to have made the rule sanctioning the the system, as it must have been communicated by him for the guidance of the local authorities.

II.—SLAUGHTER OF KINE.

Extract part of para. 2, and paras. 3 and 4, of letter No. 6, dated 10th April 1849, from Officiating Secretary to Resident of Lahore, to the Assistant Commissioner of Mooltan.

2. You were quite right to act up to what you deemed the literal meaning of the Proclamation of 29th March, but the Board believe the spirit of the paragraph quoted in the margin* to be opposed to your interpretation. The Governor General of India, they conceive, desired in that proclamation to extend perfect religious freedom to all classes in the Punjab * * * * * * * * *

* The British Government will leave to all the people, whether Mussalman, Hindu, or Sikh, the free exercise of their own religions; but it will not permit any man to interfere with others in the observance of such forms and customs as their respective religions may either enjoin or permit.
Government Proclamation, 29th March 1849.

3. The Board, therefore, are distinctly of opinion that the Right Honorable the Governor General fully contemplated and intended the removal of that prohibition against the slaughter of kine, which we have only hitherto maintained in the Punjab out of deference to a Sikh sovereign.

4. But the very same reasons which lead to this decision should make it the duty of all Civil officers in the newly annexed country so carefully and strictly to regulate the slaughter of kine in their districts, as to render it as little offensive as possible to the prejudices of the Hindoo population. For instance, it should not be permitted within the bounds of cities, towns or villages, where Hindus and Mussalmans are mixed; but under severe penalties should be removed to a

* Mr. J. Lawrence, now Lord Lawrence, who had previously served as Magistrate and Collector in the Dehli Territory.

distance of not less than 300 yards, and even then should be away from any thoroughfare. Civil officers should themselves in every large town appoint a spot for the shambles and butchers' shops, if they value the peace of their districts, and particularly take care that the Muhamadans do not select the neighbourhood of any Hindu fakír's hut or religious building. On no account ought beef to be exposed for sale in shops within the towns, even though slaughtered outside; and Mussalmans should be severely punished for ostentatiously parading what they know will offend their Hindoo neighbours.

Extract paras. 3 and 4 of letter No. 175, dated 25th April 1849, from Secretary to Government of India, with the Governor General, to the Board of Administration for the Affairs of the Punjab.

3. The Governor General desires me to intimate that you have correctly interpreted both the spirit and letter of the proclamation, and he fully approves of the regulations you have issued on the subject.

4. You are requested to intimate this His Lordship's approval to all the officers subordinate to you, and you will at the same time inform them that the Governor General, regarding the question as one deeply affecting the peace of the country, and the ready and satisfactory establishment of the British rule, will hold the Civil Officers severely responsible for measures being taken to ensure the strict observance of the regulations by all, whether Europeans or Natives.

Letter No. 202, dated 10th May 1849, from the Secretary to the Government of India, with the Governor General, to the Board of Administration, forwarded copy of a petition received from the inhabitants of Rupar, in the Ambalah district, complaining of the slaughter of kine, and requested that they should be informed that the Governor General had considered their petition and returned the following reply, (which is here given in the words of paras. 2 and 3 of the letter):—

2. That all men under the British Government are at liberty to observe their own religions and social customs, provided they do not injure or meddle with their neighbours.

3 That orders have been given that animals shall not be slaughtered publicly, or in any way so as to offend the feelings of any; and that those who disobey these orders will, on proof being given to the Deputy Commissioner, be properly punished.

The Board of Administration forwarded copy of this letter to the Commissioner Cis-Satlaj States (under cover of their No. 149, dated 21st May 1849,) and requested that he would follow the instructions conveyed in it, and explain clearly to the petitioners the answer and decision of Government.

At the same time they annexed, for his guidance in that and similar cases, copy of their Circular No. 83, dated 5th May

1849, with the correspondence circulated by it, and requested him to direct the District Officer of Ambalah to apply the rules prescribed in that correspondence to the town of Rupar. These instructions were to apply in the event of any dispute regarding the slaughter of kine or sale of beef which might arise in the districts under his authority.

I have been unable to discover whether these rules were ever communicated to the Commissioner Trans-Satlaj States, but they were evidently intended to be applicable to all districts under the administration of the Board.

They have never been extended to the Dehli territory, but would apply to the portion of the Karnal District which was formerly included in that of Thanesar, the latter district having formed part of the Cis-Satlaj States.

They have never been repealed, but it is to be observed that they were evidently meant to apply only to places where cattle-killing was being introduced for the first time, and would be likely to give offence to a portion of the population, if the cattle were killed, or the meat sold, in too public a manner. They would, of course, be prefectly inapplicable to Military Cantonments where the land has been taken up for the purpose of quartering troops.

III.—ARMS RULES.

No. 198, dated 10th May 1849, from Secretary to the Government of India, with the Governor General, to the Board of Administration for the Affairs of the Punjab.

I am directed to acknowledge the receipt of your Secretary's letter dated the 30th ultimo, No. 13, submitting, for sanction, copy of a proclamation against carrying arms, or retaining munitions of war, which the Board propose to issue thoroughout the newly acquired country between the rivers Indus and Biás, with the exception of Hazarah, and in reply to state that the Governor General sanctions its being issued, with the following reservation, however, of points to be corrected.

2. No machinery is provided in the proclamation by which the people will learn how to obtain, or apply for, the possession of the license which is necessary to save them from punishment, and which ought readily to be supplied.

3. The time allowed, *viz.*, one month from the issue of the proclamation, appears to be hardly sufficient to admit of application being made and license obtained.

4. The Governor General apprehends that, if the people do not clearly perceive how licenses are to be obtained, or if too little time to procure them be allowed, Police officers or natives in authority may take advantage of an opportunity for extortion, which would thereby be provided.

5. Amendments to meet these defects may easily be supplied. The proclamation can then be issued under the signature of your President as well as of the Members.

Extract paras. 2 and 3 from No. 40, dated 2nd July 1849, from the Secretary to the Board of Administration for the Affairs of the Punjab, to the Secretary to the Government of India.

2. The Board trust that the modifications they may have made in the proclamation, agreeably to the instructions conveyed in your letter under acknowledgment, and the orders they have issued regarding the grant of licenses to make, sell, and carry arms, will meet with His Lordship's approval. You will observe that the Board have provided for a *bonâ fide* promulgation of the meaning of the proclamation through the Revenue and Police subordinates, and the heads of villages.

3. It appears advisable to the Board, both as a means of raising revenue without hardship to the people, and also with a view of restricting the indiscriminate grant of licenses, that a fee should be paid for each. They would suggest a charge of Co.'s Rs. two (2) for each license to carry and possess arms, and Co.'s Rs. sixteen (16) for each license to make and sell gunpowder or weapons of war.

No. 1279, dated 25th July 1849, from the Secretary to the Government of India, Foreign Department, with the Governor General, to the Board of Administration for the Affairs of the Punjab.

I have the honor to acknowledge the receipt of your Secretary's letter dated 2nd instant, No 40, regarding the orders your Board have issued, in respect to the grant of licenses to make, sell, and carry arms, in the countries between the Indus and the Biás and Satlaj.

2. In reply, I am directed to state that the Most Noble the Governor General approves of the instructions in question, as well as of the issue of licenses, as proposed in para. 3, and observes that very strict attention should be paid by the local officers to these regulations, and that they should submit to the Board regular reports respecting the working of them.

PROCLAMATION.—It is hereby notified, and proclaimed for general information, by order of Government, that the possession of gunpowder and warlike weapons of every description is prohibited to all classes in the Punjab, with the exceptions herein enumerated.

2. The owners of gunpowder and warlike weapons are hereby required to surrender them to the servants of Government at the nearest Police Station.

3. All persons convicted of wearing arms, or having them, or any munitions of war in their possession, except with a written license under the hand and seal of a British functionary, duly authorized to grant the same, shall be liable to punishment.

4. All owners of villages, forts, boats, houses and buildings of every description, in which unlicensed gunpowder, weapons, or munitions of war may be found, shall, on conviction, be liable to punishment.

5. All persons who shall make or sell gunpowder, or warlike weapons, except with a written license under the hand and seal of a British functionary authorized to grant the same, shall be liable to punishment.

6. Any person convicted of a breach of any article of this Proclamation, shall be liable for the first offence to a fine not exceeding Co.'s Rs one thousand (1,000), or in default of payment to simple imprisonment for a period not exceeding six months.

7. Any person convicted a second time of a breach of this Proclamation, shall be liable to a fine not exceeding Co.'s Rs. two thousand, (2,000), or, in default of payment, to simple imprisonment for a period not exceeding twelve months, and, in addition, to the resumption of whatever pension or rent-free lands he may possess, and the confiscation of his rights and interests in any boat, house, building or land, in which proclaimed weapons or munitions of war may have been found.

8. Any person giving information which may lead to the discovery of concealed weapons, gunpowder, or munitions of war, shall be entitled to a moiety of any fine realized on conviction, or in default of payment, to such reward as may appear proper with reference to the value of the information he may have given.

9. The classes exempted from the penalties of this Proclamation are, European British subjects, British soldiers while present with their Regiments or on service, and Government officials employed on civil duties.

10. The Deputy Commissioners and other officers in charge of districts in the Punjab are hereby empowered and enjoined to grant, under certain rules which will be communicated to them, licenses duly signed and sealed, to carry and possess, or make and sell, gunpowder and warlike weapons, to parties of approved character whom they may consider trustworthy.

11. But no license so granted shall confer any right to make, sell or possess, cannon of any description, or ammunition for cannon.

12. These licenses shall not be transferable, shall be valid for one year only, and shall cover nothing which is not distinctly specified in them.

13. The penalties of this Proclamation will be enforced on and after the first day of October 1849, but its provisions shall not extend to Hazarah and the Trans-Indus Districts.

NOTE.—This proclamation was circulated with Board of Administration's Judicial Circular No. 212 of 1849, together with forms of licenses, which are omitted here, as they are altogether superseded by the forms prescribed under the Arms Act, XXXI of 1860.

The Stamp for licenses to manufacture or deal in arms is now Rs. 10 under Section 8 of the Arms Act. The Stamp for licenses to carry and possess arms is still in force, it having been ruled in Judicial Commissioner's Book Circular XV of 1865 that the sanction given in Government letter No. 1279, dated 25th July 1849, is not abrogated or repealed by the Arms Act, and has the force of law.

General Orders by His Excellency the Commander-in-Chief, Head-Quarters Camp Bilaspore, 27th March 1854.

Under instructions from the Most Noble the Governor-General of India in Council, His Excellency the Commander-in-Chief is pleased to lay down the following rules for the possession, sale or transfer, of arms by native soldiers serving in the Punjab States.

1. All native soldiers serving in the Derajat or in the Peshawar District, or between the Indus on the west and the Biás or Satlaj on the east, exclusive of Hazarah, are prohibited from possessing private arms or weapons of any description, unless the same shall have been duly entered in a registry, to be kept for this purpose in every troop, company or detachment, under the authority of Commanding Officers.

2. All native soldiers are to be required to have all arms or weapons, their private property, duly entered in such registry, on pain of being brought to trial for breach of orders and of having such property confiscated.

3. No individual native soldier is permitted to carry or possess more than one sword and a pair of pistols, or one sword and a dagger and a gun.

4. No native soldier off duty shall be permitted to appear beyond the limits of camp or cantonments carrying arms or weapons of any description, unless furnished with a pass in writing from his Commanding Officer, or other competent authority; such pass to specify the particular arms the individual is permitted to carry, and the number of hours or days for which it is to have effect.

5. Native soldiers are strictly prohibited from selling arms or weapons of any description to non-military persons, unless the purchaser holds a license for the number and description of arms he requires; and all sales or other disposal of such arms by native soldiers are to be reported for the information of Commanding Officers, in view to their being struck out of the registry of the troop, company or detachment, in which they may have been entered.

6. A native soldier, duly furnished with a pass or permission in writing from his Commanding Officer or other competent authority, may purchase arms to the extent noted in Rule 3, from any Government licensed vendor, or other party holding arms by license; such pass or permission to be valid only for such number of hours or days as it may specify: any purchases effected otherwise, or arms otherwise clandestinely acquired, will subject the soldier to trial for breach of orders, and the arms to confiscation.

7. All arms or weapons confiscated under the operation of the foregoing rules, are to be broken up, or otherwise destroyed.

8. When native soldiers proceed on furlough, their leave certificates must contain, in English and Vernacular, a detail of the number and description of weapons they carry, signed by the Commanding Officer, otherwise any arms they carry will be seized and confiscated. In no case are more arms to be entered in the leave certificate than are noted in Rule 3.

Extract paras. 1, 2, 4 and 5 of No. 107, dated 2nd February 1855, from the Secretary to the Chief Commissioner of the Punjab, to the Secretary to the Government of India, Foreign Department.

With reference to the standing orders of Government interdicting the carrying or possessing of arms in the Punjab territories, with the exception of the Trans-Indus and Hazarah districts, I am directed to submit a correspondence* which has arisen in respect to the feasibility of extending the prohibition to a portion of the last named exempted districts. It will be observed that the Civil authorities in the Derajat, and also some of the Military authorities, concur in thinking that some restrictions, and at least a partial prohibition, may be introduced beneficially into that district.

*From Lieutenant H. Bruce, Commanding at Asní, No. 132 dated 5th October.

To Commissioner Leiah Division, No. 882 dated 22nd November.

From do. No. 2 dated 4th January.

2. The Chief Commissioner also considers that the time has arrived when the practice of arms-bearing in the exempted districts may be safely restricted. He is still decidedly averse to the entire disarming of the Frontier population, and still holds that they ought to be allowed to possess and keep arms in their houses for self-defence. But there is a wide and appreciable difference between such possession, and the open carrying of arms, and it is this latter practice which the Chief Commissioner would now interdict.

4. Rejecting any plan of the above nature, the Chief Commissioner would prefer interdicting the public carrying of arms in the exempted districts, namely, the Derajat, Bannu, Kohat, Peshawar, and Hazarah. He would suggest that proclamations be issued declaring that, while the people are allowed to keep arms in their houses for the protection of their persons and property, and that if assailed by robbers they may sally forth with their arms to pursue the criminals, yet they are not permitted to wear arms in public, nor to move about the country with them, under pain of the same penalties as those enforced Cis-Indus. The District Officers shall severally be directed to assemble the heads of tribes and clans and explain to them the terms and meaning of the prohibition. An exception might be made in favor of herdsmen feeding or proceeding to feed their herds and flocks on or near the outer ranges of hills while so employed, but such parties should be registered, and the heads of their tribes should be held responsible for guarding against any abuse of this license.

5. On the above points the Chief Commissioner would solicit the orders of Government.

No. 12 dated the 17th March 1855, from the Secretary to the Government of India, with the Governor General, to the Chief Commissioner of the Punjab.

I have the honor to acknowledge the receipt of your Secretary's letter dated the 2nd ultimo, No. 107, recommending the interdiction of the public carrying of arms in the hitherto exempted districts of the Derajat, Bannu, Kohat, Peshawar and Hazarah.

2. In reply I am directed to inform you that His Lordship sanctions your carrying your propositions into effect as an experimental mea-

sure, subject to the submission of a report as to its result at the end of six months. You will be pleased to submit such a report accordingly.

No. 4529, dated 24th December 1855, from G. F. Edmonstone, Esquire, Secretary to the Government of India, to John Lawrence, Esquire, Chief Commissioner of the Punjab.

In reply to your Secretary's despatch dated the 26th ultimo, No. 862, I have the honor to acquaint you that the Governor General in Council sanctions the exportation of saltpetre being prohibited beyond the North West Frontier, and authorizes the insertion of a clause to this effect in the proclamation recently issued prohibiting the carrying of arms in public across that frontier, as proposed in Mr. Temple's previous despatch dated the 26th September last, No. 712.

No. 547, dated 5th July 1856, from Secretary to Chief Commissioner Punjab, to Lieutenant Colonel H. B. Edwardes, Commissioner and Superintendent Peshawar Division.

With reference to your letter No. 458, dated 1st May last, with enclosures, reporting the result of the order prohibiting the carrying of arms in your Division, I am directed by the Chief Commissioner to forward, for your information and guidance, the annexed copy of a letter No. 3440 of the 20th ultimo, from the Secretary to Government, conveying the authority of the Governor General in Council for maintaining the prohibition.

No. 3440, dated 20th June 1856, from Secretary to Government of India, to Chief Commissioner Punjab.

I have the honor to acknowledge the receipt of your Secretary's despatch dated 16th ultimo, No. 358, reporting that the interdiction of the public carrying of arms in the districts across the Indus has been attended with success, and, in reply, I am directed to convey to you the authority of the Governor General in Council for maintaining the prohibition.

NOTE.—Sections 7 to 11 of Act XXVIII of 1857 were extended to the Punjab by Government of India Circular No. 4083, dated 2nd October 1857, and Sections 12 to 23, and 36, by para. 2 of letter No. 438 dated 30th October 1857, from Secretary to Government of India to the Chief Commissioner of the Punjab.

These are not reprinted, Act XXVIII of 1857 having expired, and Act XXXI of 1860 having taken its place.

It was ruled by the Chief Commissioner in his Circular No. 4, dated 27th May 1858, that the Board's Circular regarding the sale, possession, and manufacture of arms and munitions of war, remained in full force, except so far as it was modified by the provisions of Act XXVIII of 1857.

Extract paras. 1 to 3 of a letter No. 210, dated 15th March 1859, from the Secretary to Government Punjab, to the Judicial Commissioner for the Punjab.

I am directed to acknowledge your letter No. 119, dated the 10th instant, submitting your opinion that such articles as bayonet-scabbards, cartouche boxes, sabretaches, cross-belts, &c &c., though not offensive weapons, must be held to be included in the term "munitions of war"; and that, consequently, their manufacture in the Punjab without license is prohibited under the provisions of the Punjab Arms Law of 1849.

2. In reply, I am to state that the Hon'ble the Lieutenant Governor concurs in the view which you have taken of this question. Technically, there is no doubt but that such accoutrements are "military stores," and the spirit of Act XXVIII of 1857 is prohibitory of their manufacture. The object in view too is to discourage the taste for arms, and put out of view the associations of warfare. It is therefore inexpedient, on grounds of general policy, that these articles should be exempted from the operation of the Act.

3. The Lieutenant Governor is pleased, therefore, to direct that licenses on stamp paper be demanded from all vendors of military accoutrements, on stamp papers of the value of Rs. 16.

No. 982, dated 3rd December 1859, from Secretary to Government Punjab, to the Judicial Commissioner.

In reply to your No. 686, dated 28th ultimo, I am directed to inform you that the Lieutenant Governor is pleased to extend the rules, published in the Supplement to the *Punjab Gazette* of the 3rd July 1858, regarding the possession of arms in the Trans-Indus territories, to the Kangra district. The necessary orders on this subject will be issued by you.

NOTE.—The several rules on the subject of arms here reprinted have, to a considerable extent, been superseded by the provisions of Act XXXI of 1860, but as portions have been held to be still in force, and, on the same principle, the remainder would be in force so far as not inconsistent with Act XXXI of 1860 or Act VI of 1866, it has been considered necessary to print the whole.

IV.—FEMALE INFANTICIDE.

Extract paras. 2 and 4 of a letter No. 303 dated 8th August 1846, from the Secretary to Government of India, with the Governor General, Foreign Department, to Major H. M. Lawrence, Agent to the Governor General, North West Frontier.

2. The Governor General concurs with you and Mr. J. Lawrence that stringent measures must be adopted to put a stop to the abominable practice of female infanticide throughout the territories which have come into our possession, and His Lordship authorizes its being declared that a systematic connivance of this practice among the influential jagirdars will be considered a just ground for the resumption of their jagirs.

4. Measures for the suppression and punishment of the crime must be of general application, and the mention of any particular sect or tribe should not be made in the Proclamations issued, and Regulations adopted for its prevention.

Extract para. 68 of a Minute on Infanticide in the Punjab, recorded by the Judicial Commissioner in 1853.

68.—I propose then :—

Firstly.—That proclamations be issued throughout the Punjab, denouncing the crime of Infanticide, and declaring the determination of Government to punish as murderers all who continue the practice.

Secondly.—That copies of the proclamation be distributed most largely amongst the classes who practise it, and that the heads of the tribes be called on to suppress it.

Thirdly.—That the heads of the villages (Lambardars,) in which Infanticide is known to prevail, be called on to give information of the crime, under the penalty of being deposed from the village management, and deprived of the income arising therefrom.

Fourthly.—That an annual census of the inhabitants, male and female, of all villages and tribes known to practise Infanticide, be made, distinguishing the male and female children.

Extract para. 12 of No. 458, dated 8th July 1853, from Secretary to Chief Commissioner Punjab, to Secretary to Government of India, Foreign Department.

12. The Chief Commissioner approves of all the recommendations proposed by the Judicial Commissioner, as detailed in para. 68 of his Minute, except that the headmen of villages should only be punished on flagrant neglect of duty, for their's will be an irksome and invidious duty.

Extract paras. 5 to 7 of No. 3894, dated 7th September 1853, from Secretary to Government of India, Foreign Department, to Chief Commissioner Punjab.

5. The steps proposed by you, at the suggestion of the Judicial Commissioner, are approved of by His Lordship in Council. Concurring with you in the opinion that anything like open supervision or secret espionage on the part of the Police should be avoided, as likely to lead to extortion and oppression, the Governor-General in Council is nevertheless of opinion that the sentiments of the Government, in condemnation of this horrible crime, should not be left to make their own way upon the convictions of the people, but should be openly proclaimed, and enforced by denunciation of certain punishment upon those who are convicted of offending.

6. There are two causes alleged for female infanticide: the one is a religious one, founded upon peculiar tenets or considerations of caste; the other is a pecuniary one, arising out of the habitual expenditure of large sums upon marriage ceremonies.

7. The Government can bring its authority to bear upon both causes, by proclaiming that the destruction of female children is murder, whatever may be the moving cause of the crime; and that it shall, in case of conviction, be implacably visited with the punishment justly due to every murderer.

The Governor-General in Council conceives that the suggestion that every Bedí family which receives a pension from the Government should hold it on the condition of pledging itself to the abandonment of this family reproach, is well worthy of consideration at the point to which the question has now attained. Under any circumstances, every such pension should be forfeited where a conviction of infanticide has been pronounced on any family or individual of the Bedís. But His Lordship in Council would go further than this.

The Governor-General in Council will be prepared to sanction any rewards or honors, or even titles, which you may recommend

the Government to bestow upon a few of those who may have been most forward in abandoning the inhuman practices which their fathers pursued.

V.—DISPOSAL OF BODIES OF UNCLAIMED AND UNKNOWN PERSONS DYING IN JAILS.

Copy of a letter, No. 582, dated 21st October 1853, from the Officiating Secretary to the Government of India, in the Military Department, to the Chief Commissioner in the Punjab.

I am directed to acquaint you that Government have lately learnt with much dissatisfaction that the Medical Officer, who was employed during the past season in delivering a course of anatomical lectures to the subordinate Medical Officers at Ambalah, obtained the bodies required for dissection by disinterring them through the agency of "domes." So objectionable a practice has been peremptorily forbidden.

2. In order, however, to afford such facilities as may be practicable and convenient for the instruction of Subordinate Medical Officers in Anatomy, the Most Noble the Governor General in in Council requests that you will be good enough to cause to be made over to such Medical Officer, as may be hereafter selected to deliver anatomical lectures at stations within your jurisdiction, the bodies of unclaimed and unknown persons dying in jails, or under charge of Government; care being taken that it is done quietly, and without attracting undue attention.

3. The Medical Board will be requested to instruct the lecturers to apply to the Civil authority when they may commence their instructions, and require subjects.

NOTE.—This letter was circulated by the Judicial Commissioner in his Circular 74 dated 16th November 1853. The rule has never been repealed, and the subject does not seem to be provided for by Act XXVI of 1870.

VI.—REMISSION OF SENTENCES FOR GOOD CONDUCT IN JAIL.

Extract, paras 21 (part) and 22 (part) of Minute by Judicial Commissioner, dated 9th March 1854.

21. * * * The Judicial Commisssioner recommends—

22. * * * *Ninthly.*—That good conduct in Jail should entitle prisoners to a remission of a portion of their sentence.

Tenthly.—That in addition to the ordinary evidence of such conduct, certain obligatory tests be established, such as the acquiring of an useful trade, the learning to read and write, and some progress in rudimentary education; and that the body of prisoners be formed into classes and gangs, out of which the most deserving would be appointed overseers and monitors.

Eleventhly.—That good behaviour registers be kept, and that wooden badges or tickets be annually given, and that one year of exemplary conduct should entitle a prisoner to a remission of six months in the original term; that any signal act of service be rewarded by instant release; and that all releases by anticipation be ordered by the Commissioner on the joint recommendation of the Magistrate and the Inspector of Prisons.

Extract paras. 10 and 11 and part of para. 14 of letter No. 310, dated 18th April 1854, from Secretary to Chief Commissioner Punjab, to Secretary to Government of India.

10. The point on which the Chief Commissioner has most doubts, is that part of the Minute which proposes rewards for good conduct in Jail. He believes that desperate offenders, professional robbers, murderers, dacoits, highwaymen, and burglars are practically not reformed, and that such men, when released, will usually return to their old callings He would be sorry to see any of them, as a rule, released before the expiration of their sentences. The Chief Commissioner cannot think that "no shade of character, nor variations of conduct, can now escape observation" in our Jails. But he believes that some of the greatest villains might readily conform to our rules, so as to evade a portion of their sentence, and be no whit reformed. Our Magistrates have not the leisure for the supervision which this part of the scheme requires. If, therefore, it be tried, it is suggested that desperate and notorious offenders be excluded from the experiment. The only exception should be in favor of prisoners who performed signal acts of service, such a giving information of an intended outbreak.

11. Where prisoners are released for good conduct, the recommendation of the Magistrate, approved of by the Commissioner, except as regards the Central Jail at Lahore. should suffice. The Central Jail being under the charge of the Inspector, his recommendation regarding any of the inmates should supersede that of the Magistrate.

The Chief Commissioner deprecates the preparation of reports and returns where they can be avoided. They necessitate the entertainment of extra establishments, and distract the attention of the Executive Officers from the administrative duties of their districts.

14. * * * Rules 9 and 10 to be at present limited to prisoners under sentence for petty felonies and misdemeanours, except in the case of signal service rendered by convict.

The eleventh rule also the Chief Commissioner would suspend, for the reasons already advanced in this letter.

Extract paras. 9, 10, 14 and 15, from No. 3392, dated 9th August 1854, from the Secretary to Government of India, Foreign Department, to the Chief Commissioner Punjab.

9 On the subject of good conduct entitling prisoners to a remission of a portion of their sentence, you suggest that the proposals of the Judicial Commissioner on this head be limited to prisoners under sentence for petty felonies and misdemeanours, except in the case of signal service rendered by a convict.

10. With respect to these last propsals, you differ on another point also with the Judicial Commissioner. He proposes that the Magistrate should send up his recommendation for release, countersigned by the Inspector of Prisons, to the Commissioner, who would pass final orders on the matter. You would dispense with the countersignature of the Inspector.

14. But His Lordship in Council considers that much improvement in the present state of things may be wrought by the changes

which the Judical Commissioner proposes. And His Lordship in Council is of opinion that the rules he suggests, as modified by you, should be introduced into practice as soon as possible.

15. His Lordship in Council however, observes, that an alteration of the Criminal Law is necessary before the changes recommended under the first eight headings, recapitulated above, can be practically introduced. The Penal Code, which is believed to be in the hands of a Select Committee of the Legislative Council, will no doubt obviate the difficulty now felt on this head; but, in the meantime, effect cannot be given to the eight proposals in question. The measures recommended under the 9th, 10th and 11th headings may be put into practice, subject to the modifications which are advocated by you, as recapitulated in the 9th and 10th paragraphs of this Despatch.

NOTE.—Other rules on this subject have been made from time to time, but no others appear to have acquired the force of law under the Indian Councils' Act. All such rules, however, made by the Local Government, so far as consistent with Act XXVI of 1870, are now legalized by Sections 54 and 55 of that Act.

VII.—BANDS OF FOREIGN VAGRANTS NOT TO BE ALLOWED TO PASS THROUGH DISTRICTS.

Copy of letter No. 4622, dated 30th August 1856, from the Secretary to the Government of India, Foreign Department, to the Chief Commissioner of the Punjab.

I am directed by the Governor General in Council to forward, for your information, a copy of the correspondence noted in the margin,* respecting certain Persian vagrants.

2. The Governor General in Council is of opinion that the passage of bands of vagrants from foreign countries, through any part of India, is objectionable, and His Lordship in Council requests that the District Officers may be instructed to prevent such parties from entering into, or passing through, their Districts at all.

NOTE.—The above was made public by Judicial Commissioner's Circular 79 dated 20th October 1856, and has never been repealed. It does not appear to be inconsistent with the general provisions of the Foreigners' Act, and no notification under Section 5, putting that and the following Sections into force in the Punjab, is known to have appeared.

VIII.—CHANGES IN THE CRIMINAL LAW AUTHORIZED IN 1859.

No. 642-5408, dated 29th December 1858, from the Judicial Commissioner of the Punjab, to the Secretary to the Chief Commissioner of the Punjab.

I have the honor to request you will lay before the Chief Commissioner the accompanying paper, containing certain modifications, which I recommend to be introduced, in the Criminal law of the Punjab Territory.

By letter No. 286 dated the 14th June 1858.

2nd. This paper has been prepared under the following circumstances :—In June last, in reporting on the question of completing the Lahore Central Jail, I alluded in general terms to the well-known necessity for Criminal law reform, and observed that, among other

* Not printed.

advantages attendant on it, there would follow great relief as regards Jail accommodation, that the number of convicts would no longer be on the increase, and there would no more be an annual demand for additions to our prison buildings.

3rd. In disposing of the Central Jail question, the Chief Commissioner assented to the truth of these observations, and expressed a wish that I would embody my views in the shape of definite propositions. This I have now done, and the result is herewith submitted.

By letter No. 986, dated 30th June 1858. Vide also letters No. 782, dated 21st October, and No. 941, dated 6th December 1858.

4th. I am desirous of stating that a copy of the rough draft of the Minute was sent by me to several of the Commissioners, namely, to Mr. Barnes, Major Lake, Mr. Roberts, and Mr. Cust, with a request that they would favor me with their opinions respecting it. The replies from three of these gentlemen reached in time for me to avail myself of their suggestions in several important respects. That from Mr Roberts, however, arrived only this morning. The copy of the rough draft that was sent to him, with his notes engrossed on the margin, is herewith submitted. It will put the Chief Commissioner in possession of that officer's views, and also will show, by comparison with the Minute as it now stands, the extent to which I have modified my original draft at the suggestion of the other Officers above named.

5th. I have now to request the Chief Commissioner's attention to a very cogent reason for the speedy issue of authoritative rules on this important subject. My Minute notes the existing written Criminal law, as given for this non-regulation Province, and it shews the deficiencies in this written law, and suggests the remedies.

6th. But, the fact is, that, throughout a large part of the Punjab, the written law has been extensively departed from.

7th. The faults in the written law were well known. It is shewn in my Minute that they were admitted by Government, and were to be remedied at a convenient season. The two principles on which the remedy was to be based, are the enlargement of the discretion of the local officers in awarding fine, and in certain cases corporal punishment. These were to lead to a more sparing use of imprisonment, and were to make our punishments more formidable, and also more economical to the State, than they are by the written law.

8th. When, however, the emergency arose in May 1857, the convenient time for these changes had come. Every officer in charge of a district or division was taxed to his utmost to preserve order, and to find accommodation for his prisoners. The principles, therefore, which were admitted to be good, and which could aid the objects in view, were more or less brought into practice.

9th. It is now most desirable that a written law of some kind should be re-established, and that all discretion to depart from it should cease.

10th. But to revert to what formerly existed, and has been condemned, would not be advantageous.

11th. I therefore propose that the Chief Commissioner inform me whether he approves of my recommendations altogether, or what

alterations in them he desires to see adopted, and that, after my Minute has been modified, I be authorized to circulate it for information and guidance, and to direct that it be acted upon, until receipt of final orders from Government as to what is to be the law in future.

12*th*. Under the peculiar circumstances of the case, this would seem a preferable course to either of the two others that remain open, *viz*., to leave a large part of the Punjab practically without a written law, or to revert to a law that has been condemned.

13*th*. Occupied as the Government now is with more pressing matters, it is not to be expected that a question of this kind, one of mere civil reform, can be disposed of speedily. Indeed, this is shewn in the instance of the proposals for improving the Civil Courts of the Punjab, which I submitted on the 28th of September last, and such being the case, it appears necessary that the decided step, which I have now recommended, be taken at once.

By letter No. 461, dated 28th September 1858.

MINUTE BY JUDICIAL COMMISSIONER FOR THE PUNJAB.

The object of this paper is to propose certain modifications which might, it seems, be advantageously introduced into the Criminal Law, as at present administered in the Punjab.

2*nd*. It is not necessary to enter into any lengthened argument to prove that reform is called for. The Criminal Law here is based on that of the Regulation Provinces of Bengal, the defects of which have been admitted for the last thirty years at least, though the Penal Code, intended to supersede it, and which has been completed for two-thirds of that time, remains still under consideration.

3*rd*. That the adaptations the Regulation Law has from time to time received, to suit the local requirements of the Province, have not sufficed for the purpose, is established by sufficient evidence, the record of which is to be found in the Chief Commissioner's office.

4*th*. The fact has been animadverted upon by the late Court of Directors of the East India Company, has been admitted by Lord Dalhousie, when Governer General, by Sir John Lawrence, and by my predecessor, Mr. Montgomery. By the last named gentleman, in the year 1854, a vigorous attempt was made to remedy the more prominent defects, but there was, at the time, in the mind of the Governor General, an expectation that the Penal Code was then on the eve of becoming law, and, on this account, Lord Dalhousie determined to negative the proposal advanced by Mr. Montgomery, and supported by Sir John Lawrence.

5*th*. Four years have glided by since reform was negatived on the above said ground, yet the Penal Code remains, as it was then, under consideration. It has been thus stationary for 21 years, during nearly 10 of which the Punjab has been under British Administration. Of the officers who entered the Province at the commencement, who took part in the introduction of our system, and had become familiar with the peculiarities of the people and country, many have, in so long a period, left the Punjab. Sir Henry Lawrence and Colonel Nicholson have been removed by death, Mr. Mansel and Mr. Edgeworth have retired from India, and Mr. Mont-

gomery, though still in India, has his thoughts and time fully engaged on other and most important duties.

6th. It is very desirable, therefore, that no further delay should be allowed, lest, at the time the reform be taken in hand, there should remain no officer of long Punjab experience to consult on the subject, and especially, on account of Sir John Lawrence's approaching departure, and the great value that must necessarily attached to his opinion on the subject.

7th. The chief defect of the present state of the law is that imprisonment is too exclusively the punishment, the penalty of fine being little used, while flogging, which, in the present moral condition of the people, is for some crimes suitable, has been too entirely discarded.

8th. A second admitted defect is that, as regards minor offences, the legal term of imprisonment is in many cases too long.

9th. Fine is admitted to be an excellent punishment where it can be imposed without entailing ruin, and thus producing indigence, which tempts to crime. But, by the present law, it can be imposed in only a few cases, and in nearly all of these cannot be given in lieu of imprisonment, but must, if imposed, be superadded to it. Moreover, in these cases it is almost universally* commutable to an additional term of imprisonment, at the option of the prisoner. So that, in all these instances, the nominal permission to fine in effect merely extends the imprisonment. In thefts, it is true that a fine, in addition to imprisonment, may be imposed, and may be realized by distraint, but the amount may not exceed the value of the property stolen, and therefore the law in fact merely enforces restitution, not fine.

* NOTE.—The *Regulations* which declare imprisonment to be the alternative when fine is not paid, are of an early date; and it has been ruled that their provisions are not affected by Act II of 1839, which legalizes distraint for realization of fines imposed under any Act.

10th. Flogging was formerly a legal penalty for many crimes, but was entirely disallowed by a *law passed in 1834, on the ground that it had not been found efficacious for reformation or example; that it is a degrading punishment; often leaves indelible marks; does not admit of appeal; and has some affinity to the cruelties practiced by Native States, which should be discountenanced by our Government.

* Act II. of 1 34.

11th. But after a lapse of 10 years, this law was decided to be too sweeping, and it was pronounced expedient, until adequate improvements in prison discipline could be effected, to substitute corporal punishment for imprisonment in cases of theft not exceeding fifty rupees, though no other punishment was to be superadded to it.

Act. III of 1844.

12th. Improvements in prison discipline have subsequently been made, but the law continues unrepealed. It was approved of by the Board of Administration for the Punjab. The Circulars they issued on the subject of its introduction are referred to in the margin. They bear the signatures of Sir Henry Lawrence and Mr. Mansel. By one of these orders, at the suggestion

Nos. 17, 22 and 38 dated respectively 15th April, 5th May, and 30th July 1851.

of Mr Edgeworth, then Commissioner of Mooltan, the license to flog in cases of theft not exceeding fifty rupees was extended to cattle-stealing and burglary. By another of the orders, it was extended to cases of theft above that sum, at the discretion of the Magistrate. By a third, it was ruled that well grown youths of 16 should receive the number of stripes prescribed for a man, and not the lighter whipping allowed for boys. These orders did not, however, modify the provision that, where corporal punishment is inflicted, imprisonment may not be superadded.

13*th*. In Mr. Montgomery's proposals, referred to above as submitted in 1854, he expressed his approval of the existing system of corporal punishment, in cases of theft above fifty rupees, and in certain cases of cattle-stealing; and he recommended the addition of fine, a proposal which was approved of by the Chief Commissioner, though, as has already been stated, the whole of these measures were, for a special reason, negatived by the Governor General.

14*th*. Act XI of 1858 authorizes, for the Regulation Provinces, the infliction of stripes without imprisonment in cases of simple robbery. burglary, theft, knowingly receiving stolen property, and wilful injury to propery; also in default of realization of fine imposed for assaults or affrays, or illegal possession of arms or munitions of war.

15*th*. This last named enactment is a special one, to expire in two years, and to apply only to such districts as it may be authoritatively extended to, and it, like that of 1844, is stated in the preamble to be based on expediency.

16*th* Still it, and Act III of 1844, are irreconcilable with the reasons given in the preamble of Regulation II of 1834 for discontinuing the punishment. Expediency could hardly be taken to authorize that which is bad in itself; and the inference seems to be that the legislature has not continued to hold the opinions on which the entire abolition of flogging was based.

17*th*. However this may be, it is certain that the views of those gentlemen who are best acquainted with the Punjab are in favor of the maintenance of the punishment to a certain extent here. This has already been shown above as regards Sir John Lawrence, Sir Henry Lawrence, Mr Mansel, Mr. Montgomery and Mr. Edgeworth. The records of the Judicial Commissioner's office prove that similar opinions on this subject are held by Mr. Barnes, Major Lake, Colonel Edwardes, Mr Roberts and Mr. Cust.

18*th*. The proposals about to be made have, therefore, been drawn up on the principle that, for certain crimes, and within certain limitations, flogging should be authorized.

19*th*. But it will also be recommended that flogging, when inflicted, be frequently combined with imprisonment, and, as this is a departure from the rule in Acts III of 1844 and XI of 1858, it seems advisable to notice the reasons on which that rule is probably founded.

20*th*. It seems to have its origin in the theory of the contaminating effect of jails. But it is doubtful whether there is much force in such an argument in India,—whether the state of morals inside the prison is considerably worse than that outside. Sir John Lawrence, in forwarding Mr. Montgomery's proposed changes of the law in 1854, records, as the result of his experience in the Punjab,

that the general depravity is such, that it cannot be much increased by intercourse with convicts. Human life is taken with little scruple, under the influence of hatred or jealousy or the desire of gain, where the deed can be done with impunity. Even those who are the most respectable are confederate with thieves. The grossest sensuality and impurity are also very prevalent.

21*st*. There is no analogy, therefore, between the Punjab and Europe, in respect to the reasons which, in the latter, disincline to short terms of imprisonment. It follows, too from what has been said above, that where the moral atmosphere all around is so corrupt, but little moral improvement can be looked for as the result of incarceration. The main object of punishment must at present be to deter the offender, and, by his example, others also from commission of crime.

22*nd*. But the present system is not the best for this end. Where imprisonment has to be resorted to, it is the sole penalty now legally available. Its severity cannot be enhanced by fine, or by the lash. Therefore, the only resource has been to extend the terms in proportion to the aggravation of the offence. This however, is not effective. Inaccurate as is the native mind as respects time, it probably does not realize, to any thing like a full extent, the number of weeks and months, the awfully long period, contained in a long sentence of imprisonment, when it hears such sentence pronounced. Besides, it may not feel convinced that the authorities will adhere to their determination through so many years. It would certainly be much more appalled by the uttering of a three-fold order, for fine, stripes, and incarceration, even though the latter should be for a much briefer term then in the case just supposed, and, while the effect would be greater, the real injury to the convict would be less. He would return sooner to his home: his family (who, often, entirely unconnected with the guilt of his offence, under the imperfection of human institutions, suffer more than he perhaps by his imprisonment,) would be deprived of his support for a shorter term, and the State would be put to less expense.

23*rd*. The proper course appears, then, to be to make fine a universal penalty, except where it would be ruinous, to let it be the sole punishment in some cases, combine it with jail in others, and combine it, or both, with stripes in a few.

24*ht*. But, ere proceeding to detail the rules proposed for producing these results, it remains to notice the second great general defect stated above (para. 8th), the too protracted terms to which imprisonment for the less heinous offences can, under the existing law, be legally extended.

25*th*. An examination of the Regulations brings to light that the present length of sentences is attributable in a great degree to Regulation II of 1834. the enactment above referred to by which flogging was abolished. For the Regulation prescribes certain terms of imprisonment in lieu of stripes; and, whereas this latter mode of punishment had been a very general one up to that time, the descriptions of crime, for which the legal term of imprisonment was thus extended, are numerous. The maximum number of stripes, whether by order of the highest or the lowest Court, was nearly the same. But in the commutation, their value was made to vary with reference

to the Court that imposed them. Corporal punishment, ordered by the highest Courts, was to be commuted for 2 years' imprisonment; if by the Magistrate, one year; and if by his Assistant, one month.

26*th*. This commutation has continued in force ever since; and, as respects Deputy Commissioners and other officers possessing the authority of a Magistrate, it constitutes a large portion of the imprisonment these officers can inflict. The penalty, for instance, for burglary above a hundred rupees, all cattle thefts, and simple thefts above fifty rupees, and not above three hundred rupees, was, before the passing of this Regulation, two years' imprisonment and 30 stripes; and for theft under fifty rupees, six months' imprisonment and 30 stripes. By the commutation, the Deputy Commissioner sentences to three years for the former offences, and 18 months for the latter; so that one-third of the sentence in the former, and two-thirds in the latter, consists of the commutation for stripes.

27*th*. The figures in the margin* show that deducting miscellaneous offences, 18,959 graver crimes were brought to trial in the Punjab, in the course of the year 1857. Of this number, burglaries, thefts, and cattle stealing make up 18,123 cases (*a*). These figures give a tolerable correct idea of the great increase of imprisonment, resulting from the commutation prescribed by Regulation II of 1834. They do not, however, exhibit the whole effect, because flogging was, before the passing of that law, a legal punishment for many crimes besides burglary and theft.

* Crimes and misdemeanours brought to trial in the Punjab, in the year 1857, cases 40,404. Of these, Miscellaneous offences (consisting chiefly of petty misdemeanours, including 5,446 cases in which Government Officials were punished,) amount to cases, ... 21,445

There remain graver offences. 18,959

(*a*) Burglary, ...	4,148
Theft, ...	10,068
Cattle theft, ...	3,907
	18,123

28*th* But the real value of a good flogging, in the opinion of the recipients, is, in the Punjab at least, if expressed in duration of imprisonment, less than 3 months. This point has recently been a matter of frequent experiment at the Lahore Central Jail, where men, with less than 3 months to run, have begged to receive, and in many cases have received, 30 lashes, rigorously applied, as the price of their immediate release.

29*th*. Regulation II of 1834, therefore, unless Bengalí skins are more sensitive than those of the Punjab, did enormously increase the amount of punishment, although in its preamble, which professes to setforth its object, it omits all notice of this fact.

30*th*. If, therefore, three months be taken henceforth as the equivalent of a severe flogging, and pronounced allowable in addition to the imprisonment legally imposable before passing of that Regulation in cases where flogging may not be inflicted, a decided reduction of the present term of imprisonment would be the result. In cases where stripes are inflicted the question of commutation will of course not enter, but the maximum term of imprisonment will contrast to what it was before the year 1834. The details of the change can best be given in their proper place, among what will now be stated, namely, the remedies it is proposed to adopt for the defects above noticed.

Fines—Rules proposed.

31*st*. First, as regards *Fines*. It is recommended that the several Courts have power to fine, at their discretion, up to the following amounts:—the only exception being where the amount is already limited, or may henceforth be limited, by any special enactment for any special offence,—such as Act XXX of 1841 for contempt of Court,—Act XXVIII of 1857, for breach of arms laws. But this exception shall not apply to Act XVI of 1850, by which fine for theft is limited to the value of the property stolen, or to the limits laid down for fines in what are known as the "General Regulations," *e. g.*, Regulation IX of 1807.

The Judicial Commissioner, with sanction of the Chief Commissioner, unlimited.		
Do., without such sanction, to	Rs.	10,000
Commissioners of Divisions, to	„	2,000
Deputy Commissioners, and other Officers of equal powers, to	„	500
Assistant Commissioners and Extra Assistant Commissioners with special powers, to	„	200
Assistant and Extra Assistant Commissioners with ordinary powers, and Tahsildars, to	„	50

32*nd*. That fine be imposable in every case of conviction of crime or misdemeanour, except in cases where entire confiscation is by law ordered; but that the amount be regulated with careful regard to the circumstances of the defendant. It should be impressed on the minds of young officers that a fine of even five rupees is felt by many of them as a severe penalty.

33*rd*. Where immediate payment is impossible, the fine may, at the discretion of the Court, be liquidated by instalments. These however should not extend over any very protracted period. Where imprisonment is combined with fine, the payment should be completed within the term of imprisonment, and in other cases a year may be fixed as the limit The police should be informed of the amount of fine, and be instructed to inform the relatives of the prisoner in their houses, and tell them to pay the fine into the Tahsil and bring the receipt of the Tahsildar, which will be accepted as a warrant for the release of the prisoner.

34*th*. All fines to be realizable by distraint and sale of personal property, wherever this can be done without protracted enquiries into counter claims. But the Courts should exert themselves to realize such portion of the fine as can be fairly recovered. As the general rule, real property will not be liable for the fine, but, in special cases, an exception will be made, and real property, other than land, may then be sold with sanction of the Commissioner, and land may be sold with the sanction of the Judicial Commissioner.

35*th*. Should the measures taken for realization of the fine disclose that payment cannot be enforced without entailing ruin on the convict, the fine shall not be realized.

36*th*. In cases for which the existing law does not prescribe fine, a portion of the imprisonment shall be deducted from what would otherwise be the sentence, in every case in which a fine under the rules now proposed is realized. This portion shall not exceed one-

fourth of the whole legal term (exclusive of commutation for stripes under Act II of 1834,) which the Court passing sentence may inflict for the particular offence. Also, in sentences passed by District Courts, the whole fourth shall ordinarily be deducted, so that the commutation may be substantial and important. But with regard to the Sessions Courts, as the maximum term of imprisonment imposable by the Court is, for some crimes, too extended to allow of a deduction of one-fourth of that term from every sentence, the Commissioner shall make such deduction as he think proper in each case, provided that he do not exceed the limit here fixed, namely, one-fourth of the maximum term imposable by him, on the one hand ; and provided that the abatement be important and considerable, on the other.

37*th*. In cases for which the existing law does authorize fine, (including thefts, &c. for which, by Act XVI of 1850, fine to the extent of restitution of the property stolen may be imposed,) an addition may be made to the term of imprisonment at present legally imposable, should the fine not be realizable, or be unrealizable because its enforcement would produce ruin. The additional imprisonment may not exceed the term mentioned in the preceding para., *viz.*, one-fourth of the maximum period now impossible for the particular offence by the Court which passes sentence, or as regards sentences at the Sessions, such moderate period (not exceeding the one-fourth) as shall be a fair equivalent for the fine.

38*th*. Where a part only of the fine is realized, a proportionate alteration should be made in the term of commutation, which is the subject of the two preceding paras.

39*th*. In cases, where the sentence passed is for fine without imprisonment in the first instance, the Court may adjudge imprisonment to be enforced, in event of non-realization of the fine, for a term not exceeding that which it is within its own competency to impose for the particular offence, as the law now stands. Also, if the offence for which the fine was inflicted is one for which stripes may be imposed, the Court may adjudge stripes instead of imprisonment in case of non-realization of the fine, provided that the number of stripes shall not, when added to those inflicted for the crime, exceed the maximum allowable under the following rules on the subject of corporal punishment.

Corporal Punishment.
Rules proposed.

40*th*. *Corporal Punishment*—It is proposed that this punishment may be inflicted henceforth in the worst descriptions of larceny, and also in certain sensuous crimes, offences in which the object is animal gratification. It seems to have a special suitableness for these—that bodily pain should be the penalty for criminal bodily pleasure. The regulation law prescribed it until the time when corporal punishments were altogether abolished, and though the Indian Penal Code, now under consideration, gives as one reason for leaving adultery unpunished, that the law cannot, by any penalty short of the extreme one, equal the injury inflicted by the adulterer, yet it seems equally true and worthy of attention, that the law can easily inflict such punishment as may much more than equal the advantage reaped by the offender. A sound flogging, combined, at the discretion of the Court, with fine or imprisonment, or all three

together, would in most cases cause the criminal to think he had been a loser in the transaction. Such would be the case in this country, and probably in more civilized countries. The man who does not blush at the eclat of an intrigue, which has robbed another of his best treasure, and who is still received in society notwithstanding the act, would lose position and feel shame at the notoriety consequent on a public whipping. This might check the crime, though it would not be proportionate to the injury done by the criminal.

41*st*. The following are the offences for which this penalty is recommended :—

Dacoitee, or belonging to a gang of Dacoits.
Highway Robbery.
Burglary.
Theft, including cattle-stealing.
Child stealing.
Receiving stolen property wittingly.
Counterfeiting current coin.
Forgery.
Incest.
Rape.
Unnatural crime.
Adultery.
Breach of Prison rules by convicts.

42*nd*. The maximum number of stripes to be forty.

43*rd*. These may be inflicted at once, or in two instalments, as the officer passing sentence may deem fit, but not less than a month is to elapse between the instalments.

44*th*. The flogging to be administered not on the back, but, as is at present the practice in the Punjab, on the posteriors, a part of the body which never need be exposed to view. This obviates to a great extent one of the objections urged in the preamble to Act II of 1834, namely, that the marks, if indelible, may prevent the offender from returning to an honest course of life.

45*th*. In lieu of the commutation for stripes prescribed by Act II of 1834, three months' imprisonment may be imposed henceforth, both for crimes for which the penalty of corporal punishment was abolished by that Act, and has not subsequently been legalized, and also in cases where, though the punishment be legal, the infliction in the particular case, whether on account of infirmity, or for other reason, is not deemed proper.

46*th*. The commutation should be graduated from three months downwards, according as the number of stripes merited for the offence is less than the maximum allowable, provided that the maximum commutation be 15 days.

47*th*. No woman is to receive this punishment, and no man who is, from sickness or infirmity, unfitted to endure it.

48*th*. The limit for boys to be 10 stripes; and no imprisonment should be adjudged in commutation, in cases where there are reasons for not administering the flogging.

49th. Assistant Commissioners, with the lowest grade of authority, and those also who are invested with special powers, may prepare cases and recommend flogging, but may not carry out the sentence without the approval of the Deputy Commissioner or other officer having the powers of a Deputy Commissioner.

50th. Whenever the sentence to stripes is combined with one to imprisonment for a term not less than one month, stripes are not to be inflicted for a month, so as to give time for appeal. Moreover, in all cases which are of at all a doubtful character, and in which sentence is passed for stripes without imprisonment, the Deputy Commissioner or other officer possessing his powers should, whenever time and circumstances permit, endeavour to obtain the opinion of the Commissioner of the Division before the sentence to flogging is carried out.

Imprisonment—Rules proposed.

51st. Imprisonment.—The foregoing alterations of the law as respect fine and stripes, will allow a modification in the penalty of imprisonment. In the graver felonies, and in some few other crimes, it will still be necessary to imprison, though fine, and in some cases stripes, be superadded. But in minor felonies, and in the more serious misdemeanours, cases will often arise wherein fine, or as respects some few of these offences, fine and stripes, will suffice, and imprisonment may be avoided. Indeed it will often happen that, in dealing with several offenders in one and the same case, the Court will find imprisonment, with one or both of the other penalties, suitable as the punishment of the principals, while the less guilty may be more equitably dealt with by sentence to one or both of the other penalties without imprisonment.

52nd. Lastly, in minor misdemeanours fine alone is the proper punishment; and incarceration should only follow when fine cannot be realized, and when the existing law allows it.

53rd. Thus, henceforth, there should be three classes: first, crimes in which imprisonment must be imposed; secondly, those in in which it may or may not be imposed, at the discretion of the Court; and, thirdly, those in which it may not be imposed.

54th. The following is a list of crimes and misdemeanours, which are to fall into each of these three classes. It is probably complete as respects Class I, and should any description of offence have escaped notice, the foregoing observations will suffice to show whether it should come into Class II or III:—

CLASS I.

Crimes for which imprisonment must be ordered, whether fine or other punishment be superadded or not.

Murder or attempt to murder (where capital sentence is remitted.)

Dacoitee and belonging to a gang of Dacoits.
Highway robbery.
Burglary with aggravating circumstances.
Theft with ditto.
Cattle-theft with ditto.
Child stealing.

Importation of slaves, and purchase of imported slaves.
Arson.
Incendiarism.
Counterfeiting coin, or uttering base coin.
Rape.
Satti, aiding and abetting.
Exposing infant children.
Incest.
Unnatural crime.
Thugs, belonging to a gang of.

State offences (except where the law expressly authorizes fine without imprisonment.)

CLASS II.

Crimes and misdemeanours for which, at the discretion of the Court, imprisonment may or may not be superadded to fine or other punishment.

Culpable Homicide.
Burglary (simple.)
Theft (simple.)
Cattle theft (simple.)
Receiving stolen or plundered property, knowingly.
Affray or riot, with homicide, or violent breach of the peace.
Assault, with wounding, or personal injury.
Forgery, or uttering forged documents or papers.
Perjury.
Abduction of women.
Abortion.
Adultery.
Bribery, corruption, extortion.
Breach of trust.
Caste, wilfully offending against.
Cheating.
Concealment of heinous offences.
Concealment of birth by a mother.
Conspiracy.
Destruction or wanton injury of property.
Duress, illegal.
Embezzlement.
Escape, or aiding and abetting the escape, from custody or jail, of persons charged with, or convicted of, criminal offences.
Falsification, or alteration, of papers, not amounting to forgery.
False and malicious complaint.
Fraud.
Gambling, or keeping a gaming house.
Harbouring, knowingly, bad characters.
Neglect of duty in landowners.
Rescue, forcible.
Resistance of process.
Suicide, assisting.
Weights and Measures, using false.
Oppression.
Mischief.
Certain State offences, according to the terms in recent enactments.

CLASS III.

Misdemeanours for which imprisonment may not be ordered, except as the alternative in case of non-realization of fine.

Abusive or threatening language.
Affray or Riot (simple.)
Assault (petty.)
Calumny.
Contempt of Court.
Dharna.
Drunkenness, or other disorderly conduct.
Evading process.
Ferry laws, breach of.
Misconduct in Government servants, not falling under any specified class of offences.
Negligence, culpable, by which injury is caused to person or property.
Nuisance, offences connected with local.
Public or indecent exposure of person.
Religion, offences against.
Seizure of carriage, illegal.
Trespass.
Certain State offences for which the penalty of fine is prescribed by recent enactments.

55*th*. It may be convenient to give an illustration of what would be probably the effect of these changes in the law.

56*th*. A case may be supposed, in which a burglary is committed by two paupers, one a hale man, the other old and infirm, and an ornament worth five rupees is obtained by them, and is received, knowingly, by a goldsmith.

57*th*. As the law now stands, each of these 3 men would be liable to three years' imprisonment, making a total of nine years, and the three collectively would be liable to a fine of five rupees. Also, these penalties would, in such a case, ordinarily be imposed in full.

58*th*. But under the proposed changes, the liabilities would be as follows :—The hale burglar might receive two years' primary imprisonment, and six months' in lieu of fine, and also he might be flogged. The infirm burglar would be liable to two years' and nine months' imprisonment, *viz.*, 2 years primary, 6 months in lieu of fine, and three months in lieu of flogging. The goldsmith might be imprisoned for 2 years, flogged, and fined up to 50 rupees. The total being 7¼ years' imprisonment and fine. It is probable, however, that the Court would not sentence the last named offender to imprisonment, but would prefer imposing a heavy fine of 100 Rupees and forty stripes. Thus the aggregate of the terms of sentence on the three criminals, would be 5¼ years' imprisonment, instead of 9. A better punishment would be inflicted, and the State would be saved whatever cost and inconvenience attend the maintenance of a convict in prison for three years and nine months.

59*th*. A second illustration may advantageously be added, in order to obviate the chance of misapprehension as to the rules proposed.

60*th*. A Commissioner convicts a man of culpable homicide, and considers that, as the law now stands, by which imprisonment is the only penalty available, a sentence of 4 years is suitable.

61*st*. But the proposed modifications of law permit fine; and as one-fourth of the maximum term of imprisonment he can impose for the offence of manslaughter would be too great a deduction from such a sentence, something less must be allowed. Probably one year would be deemed suitable in commutation for the fine. Also, as fine is not imposable under existing law, the commutation is to be deducted from the sentence.

62*nd*. Thus, the sentence will be to three years' imprisonment, and fine, commutable to one year's additional imprisonment, if not realized.

63*rd*. A third illustration is given merely to draw attention to a class of cases for which the proposed change of the law is particularly suitable.

64*th*. A man on sudden provocation strikes another a slight blow with the hand on the side, and thereby ruptures a highly diseased spleen, and causes death. In such a case a fine is suitable, and will henceforth ordinarily be inflicted. But heretofore imprisonment has been the only legal punishment.

65*th*. Among the offences which would be much more appropriately punished under the proposed, than under the present law, is that of serious affray. At present there is no legal resource but to send the offenders to jail, whereas, the principals alone, and sometimes not even they, are deserving of such treatment, and the rest should be let off with a fine graduated according to the criminality of each individual.

Commutation of prison labor for fine.

Its abolition recommended.

66*th*. Another defect which has not been noticed above, in the present state of the Criminal law, is the permission for a convict to commute labor for fine, in all but a limited number of offences, provided the sentence is not for a longer term of imprisonment than 3 years.

67*th*. This provision was also originated by Regulation II of 1834. At that time convicts were made to labor outside the jail, and the man who had formerly occupied a respectable position in society suffered more than the lower classes by this exposure. Also, he was little fitted for out-door labor with the spade or pickaxe.

68*th*. Now, however, all convicts work inside the jail; and whereas in fact none of the occupations seem to require much muscular vigor and habituation to hard labor, it would at all events be easy to select some of the occupations, as capable of being performed by those whose pursuits have heretofore been sedentary.

69*th*. It is therefore now recommended that permission to commute labor for fine be abrogated, and that henceforth all convicts shall be obliged to work and assist the State in maintaining them.

70th. The next proposal is that District Officers should be empowered to decide certain cases (to be specified below,) whenever they consider the penalties they can inflict are sufficient for the particular offence,—committing to the Sessions only the graver cases; and that to this end they be invested with power of imprisonment, for these descriptions of crime, up to three years, exclusive of the additional one-fourth in commutation for unrealized fine, exclusive also of stripes and commutation for stripes, in the instances in which corporal punishment is to be allowed.

Proposed that District Officers be empowered to decide certain cases now decided by Commissioner of Division

71st. The offences are—

Manslaughter.
Affray, attended with homicide, or severe wounding.
Rape.
Unnatural Crime.
Adultery (already allowed.)*
Forgery.
Counterfeiting coin.
Abortion.

72nd. The authority should be given merely to the Deputy Commissioner, or other Officer actually in charge of a district, and not to any subordinate of his, though invested with the full powers of a Deputy Commissioner.

73rd. This would be a great relief to Commissioners, as among the foregoing offences very many cases arise for which the amount of punishment above specified is sufficient. No evil seems likely to result from allowing a District Officer to decide which of these cases to dispose of finally himself, and which to commit to the Sessions; for, should the Commissioner be of opinion that the sentence passed is in any instance too lenient, he has, in the Punjab, the authority to enhance it. But, as the law at present stands, the Commissioner is frequently called upon to go through a voluminous record, or take a mass of evidence; and he finds at the close of his investigation, that the penalty proper to be awarded is less than what, in other classes of offence, the District Officer, who committed the case for his decision, is imposing every day.

74th. The next subject which will be noticed, is the present state of the Criminal law regarding disputes about rights in property. The enactment, which contains the law on this subject, is Act IV of 1840.

Act IV of 1840. Disputes about rights in property.

75th. The cases cognizable are disputes likely to lead to a breach of the peace. In practice, it is found that the subjects in dispute are generally one or other of the following descriptions:—The right to build a house, or open a new window or door, or erect an additional story to a house, the objection made being the injury to the privacy or comfort, or encroachment on the property, of the opposite party.—The right to carry off rain water from a roof, or by a drain on the ground, in some direction alleged to be injurious to the person who opposes the innovation.—Disputes about irrigation.—Obstructions to a right of way.—Felling a disputed tree, and the like.

* This refers to a Circular issued by the Board of Administration, No. 25 of 1850, empowering Deputy Commissioners to dispose finally of cases of Adultery.

76th. The principle of the law is that the Magistrate is to restore possession to the party which held it when the dispute arose, leaving the question of real title to be decided by separate suit in the Civil Court.

77th. Experience has shown that this principle is not suited to the minds of the people of these territories. They cannot understand the double suit on the same subject. Great misapprehension and dissatisfaction are the consequence.

78th. Two of the Commissioners, Mr Barnes and Mr. Cust, have brought this subject specially to notice, and there is no doubt the law should be altered.

79th. The following rules are now proposed :—

First.—That only such of these disputes shall be taken up in the Criminal Court as urgently require immediate adjudication, in order to prevent a serious breach of the peace. In all other cases, the parties be referred to the Civil Court, and, if necessary, be bound down by personal recognizance, or on security, to keep the peace towards each other. There has been a laxity of practice on this point heretofore. Cases have frequently been taken up under the Act, which might have been left to the Civil Court.

Secondly.—That such cases as, under the foregoing rule, cannot bear postponement, be taken up by the Criminal Court, either of its own instance, or on application from one of the parties, and be decided on their merits. The Court to have the power of arresting the innovation complained of, pending decision of the case, and to fine the offender where this may be equitable; and also to re-imburse from the fine the injured party. Further, where the subject of dispute is susceptible of valuation, the Court shall realize from the party in the wrong a sum equal to the institution fee payable, had the case been preferred in the Civil Court.

The Tehsildar to be empowered to take up and adjudicate such cases, where invested with criminal authority.

All cases thus decided to be appealable in the Civil Court only, and that Court should waive objections founded merely on defect of form or procedure.

80th. The reason for giving the Criminal Court jurisdiction in the first instance, is that it tends to obviate delay, as intelligence of the dispute will first reach that Department, and the only cases to be thus cognizable are those in which prompt action is important. But this reason does not apply to the appeal, which is therefore to be in the Court which, under any but these peculiar circumstances, would naturally have jurisdiction in the case.

Prostitution. Girls of tender age not to be allowed to become prostitutes.

81st. There remains one more subject for notice on the present occasion, namely, the system by which brothel-keepers maintain the supply of prostitutes. This matter has lately attracted the attention of Captain Elliot, the Deputy Commissioner of Gujaranwala, who has carried out his enquiries under instructions from this office.

82*nd*. The recruits are, for the most part, young girls of too tender an age for prostitution. They are voluntarily given over for some valuable consideration by the parents or guardians; and, not unfrequently, they are made to perform the ceremony of marriage with some male, perhaps himself of tender years, the object being to veil the nefarious character of the transaction.

83*rd*. The enquiry in Gujaranwala has resulted in a proposal by Mr Cust that a remedy be provided by legislation. The following is an extract from his letter :—

"So long as the matter only related to parties committed to the trade, we might look on with sorrow, but without reproach; but, if we allow whole generations, still uncorrupted, to grow up to be trained to vice, let us cease to vaunt of being a Christian Government.

"There appears to be no law by which we can reach this evil: let us make one. In England, the ranks of this unhappy body are filled up by parties who were brought up for better things, but who fall away under temptation. In India, the poor little creatures have no option; the body developes itself before the mind, and they never have the opportunity given them of being honest women.

"An Act, called 'the Bishop of Oxford's Act,' passed some years ago through the Imperial Parliament to meet this evil: it made it penal to be a party to the personal violation of any girl of tender years. This cuts at the root of the evil. The enemy in England to female virtue is "the seducer"; in India it is the parent, the mother-in-law, and the reputed husband. We should strike *directly*, and spare none."

84*th*. With the view of remedying this evil, the following rules are now proposed :—

First.—That the introduction of a young girl of tender years into a brothel is a misdemeanor, punishable as such under the general regulations as now modified. The parents or guardians, the keepers of the brothel, and all other persons directly interested in the transaction, shall all be liable to this punishment if proved to have been concerned in the commission of the offence.

Secondly.—That the plea of the marriage ceremony having been performed will not be a bar to the infliction of the foregoing penalty, if it is proved by presumptive evidence that the marriage is only a pretence to legalize the nefarious transaction.

Thirdly.—That in the event of the parents or guardians refusing to take back the girl, the Magistrate shall be at liberty to dispose of her in such manner as may be open to him and most conducive to her interests.

85*th*. It may be observed, with regard to rule 2, that child-marriage is in itself an evil, though tolerated by the Government, merely because the people are so much attached to it; and, therefore, there is no undue hardship in forbidding its practice by the male inmates of a brothel.

86*th*. The whole of the measures having now been detailed, it will be convenient to conclude with a summary recapitulation of them.

I.—That the several Courts be empowered to fine, as stated in paras. 31st to 39th.

II.—That corporal punishment be extended, see paras. 40th to 50th.

III.—That the laws authorizing imprisonment be modified, see paras. 51st to 65th.

IV.—That commutation of prison labor for fine be discontinued,—paras. 66th to 69th.

V.—That District Officers be allowed to decide certain cases now decided at the Sessions,—paras. 70th to 73rd.

VI.—That Act IV of 1840 be modified,—paras. 74th to 80th.

VII.--That the practice be checked by which girls of tender age are at present brought up to become prostitutes,—paras. 81st to 85th.

No. 1, dated 4th January 1859, from Secretary to the Chief Commissioner for the Punjab, to Judicial Commissioner for the Punjab.

Judicial.

I am directed to acknowledge your No 642 of the 29th ultimo, submitting a report on various reforms in the Criminal Law, this matter having been for some time under the general consideration of the Punjab Administration, and having been specially brought to your attention by this office letters marginally noted.

No. 986, dated 30th June.
No. 782, dated 21st October.

2. I am now to convey to you Sir J. Lawrence's best acknowledgments for the very able, interesting, and complete report which you have furnished, a report which he has perused with much satisfaction, and in the sentiments and proposals of which he entirely concurs. I am also to request that you will communicate the expression of the Chief Commissioner's thanks to the Commissioners who may have aided you by their suggestions in details, namely, Mr. G. Barnes, Major E Lake, Mr. A. Roberts, Mr. R. Cust.

3 The reforms in question relate to the extension of fine and corporal punishment, and the limitation of imprisonment. You propose to inflict fine (to certain specified amounts) for all offences, making generally an abatement not exceeding one-fourth from any sentence of primary imprisonment which may have been passed; you propose to inflict stripes, up to forty in number, for certain specified offences, which are for the most part cognate to theft and robbery, or crimes of a sensuous character,—a commutation of not more than three months' imprisonment being made on this account; you propose to declare one class of offences for which imprisonment must be imposed, one class for which it may or may not be imposed, and one class for which it may not be imposed; you further propose various minor reforms, which it is not necessary to specify here. It will suffice to state that the Chief Commissioner approves of the abolition of fine in lieu of labor (intra-mural); of the disposal by the District Officers of certain cases now committed to the Sessions; of the transfer to the Judicial Department of most cases of forcible dispossession; of the checking of the practice of bringing up young girls to a life of prostitution. Lastly, you solicit, for cogent reasons given, the Chief Commissioner's permission to declare, by a circular, a set of rules framed in accordance with these proposals, and this immediately.

4. Believing that these reforms will render the Criminal Law more effective and vigorous, to prevent and deter from crime, less unpopular and injurious to society and more economical to the State ;—considering, too, that the want of such reforms has long been felt and admitted ;—and that, under the pressure of late events, our Officers have been obliged to resort frequently to measures resembling those now categorically proposed ;—and that it is necessary to prescribe at once a fixed practice to be followed, until the new Penal Code shall be issued ;—the Chief Commissioner authorizes you to circulate rules in the manner you purpose, subject to the final approval of the Supreme Government, which will accordingly be solicited. I am to request that you will at once arrange the details, enjoining Commissioners of Divisions to carefully watch the working of the rules, and to effectually supervise and control the execution of them by the District Officers.

NOTE.—As the question sometimes arises what is the law applicable to an offence committed before the Indian Penal Code came into operation, this correspondence is still of importance. Until it was circulated, the law must be looked for in the Criminal Regulations so far as introduced by the Government letter No. 418, dated 31st March 1849 ; afterwards, and before the Penal Code came into force, in those Regulations as modified by the orders of the Lieutenant Governor. The modifications were evidently intended to be applicable to all offences tried after they were introduced, including those committed previously.

In circulating this correspondence, the Judicial Commissioner stated that he found it necessary to depart from the intention, expressed in the Minute, to add three months to the former maximum legal term of imprisonment, in every case in which stripes were formerly authorized by enactment, and were in force until the passing of Regulation II of 1834, but had not now been legalized—*Judicial Commissioner Book Circular V—14 dated 9th February* 1859.

IX.—GAMBLING RULES.

Copy of a letter No, 725—5347, dated 13th December 1859, from the Judicial Commissioner of the Punjab, to the Secretary to Government Punjab.

I have the honor to transmit, for the perusal of His Honor the Lieutenant Governor, a Circular, in original, issued in the Oudh territories, regarding the treatment of gambling cases, * and, if approved, I purpose issuing similar instructions for the Punjab. I have no doubt there is much diversity of opinion and practice on the subject among our officers at present.

Copy of a docket No. 1027 of 27th December 1857, from the Secretary to Government Punjab, to the Judicial Commissioner for the Punjab.

Returns original enclosure of his No. 725, dated 12th instant, regarding treatment of gambling cases in Oudh, and conveys the Lieutenant Governor's approval of the issue of similar orders in the Punjab.

NOTE.—These rules are now superseded in towns to which the Sections of Act III of 1867, not generally applicable, have been extended, and they are also superseded elsewhere, so far as they are inconsistent with Sections 13, 17 and 18 of that Act.

X.—ADMISSION OF ARMED RETINUES OF CHIEFS INTO WALLED CITIES.

Extract para. 2 of letter No. 220, dated 14th April 1860, from Secretary to the Government Punjab, to the Judicial Commissioner Punjab.

2. For the future, however, I am to convey the Lieutenant Governor's positive injunction, that no native armed party

* The Circular referred to is No. 91 of 1859, issued by the Judicial Commissioner, Oudh, communicating the sanction of the Governor General in Council to the introduction of Sections 10 to 15 of Act XXI of 1857, into Oudh.

exceeding fifty men be ever allowed to enter any walled city without the special sanction of the Government. Such a number, too, to be permitted to do so only as the retinue of Chiefs of the highest rank, such as the Maharajah of Pattialah. In all doubtful cases the Deputy Commissioner should refer to the Commissioner.

Where the ordinary Jalús, or retinue, exceeds fifty men, the Commissioner will exercise his discretion in regard to the number of men to be admitted, reporting to Government.

NOTE.—The above rule, promulgated by Judicial Commissioner's Book Circular XII—29, dated 17th April 1860, has never been repealed, and appears to be still in force.

XI.—POLICE CHAUDHRIS OR HONORARY POLICE OFFICERS.

Extract from letter No. 477—3380, dated 7th September 1860, from Judicial Commissioner Punjab, to Secretary to Government Punjab.

Vide Government letter No. 449, dated 2nd August 1860.

With reference to the correspondence lately printed in your office, and communicated to Commissioners with my Circular No. 77, dated 27th ultimo, I have the honor to transmit, for the consideration of the Hon'ble the Lieutenant Governor, a letter, No. 315, dated 29th August, from the Commissioner of Lahore, with a letter from the Deputy Commissioner of Lahore, reporting the nomination of two zemindars of known good character and local influence, as police agents at the outlying Chaukis of Barkí and Sur Singh, and soliciting further orders in regard to their designation, their duties, powers, and allowance.

2. The Chauki of Barkí has, under the former arrangements, one dafadar and three sawars. The jurisdiction is extensive, being over 38 mauzahs. I would allow the nominee, Dewa Singh of Manihala, Rs. 50 per mensem, on his engaging to maintain three horsemen to patrol the high road and the villages, and to convey reports to the thanah Chhabíl, to which he will be subordinate. Dewa Singh was a Subadar under the Sikh regime, and I would continue the designation to him in his police capacity.

3. The Chauki of Sur Singh has one dafadar and two sawars; and the jurisdiction is smaller than that of Barkí The nominee is Baj Singh, formerly a colonel in the Sikh service, I would continue the designation, and would allow him Rs. 40 per month, on condition of his keeping up two horsemen for similar duties as in the case of Dewa Singh: his reports being made to the thanah Pattí.

* * * * * * *

5. Both Dewa Singh and Baj Singh should, of course, retain their pensions.

6. They should receive reports from the Chaukidars and Lambardars of the villages placed under them. They should immediately proceed to the scene of a crime, and use their best efforts to apprehend criminals and recover stolen property. They should report all occurrences to the thanahs to which they are subordinate; and should be generally held responsible for the security of person and property within their villages.

It should be explained to them how important it is that they should keep on good terms with the Lambardars of the villages in their own circles, and with all neighbouring Lambardars, and should work through them ; that, if they and the Lambardars wish it, the Chaukidars of their villages will be removed altogether, or new men appointed ; and that they will be countenanced, supported and rewarded, if they do not abuse their influence and position.

Extract from letter No 572, dated 15th September 1860, from Secretary to Government Punjab, to Judicial Commissioner Punjab.

I am directed to acknowledge your letter of the 7th instant, No 477, and to inform you that the Honorable the Lieutenant Governor approves of the arrangements made for the late Police Chaukis of Barkí and Sur Singh, with the exception that His Honor would prefer remunerating the Lambardars who have been nominated as police agents by the grant of an "inam," which will give them a more important status in the village, and an interest in the land.

Extract paras. 1 to 4 of letter No 61, dated 26th March 1861, from the Secretary to Government Punjab, to the Judicial Commissioner Punjab.

In the new system of police now in course of introduction, the Lieutenant Governor is desirous that scope should be afforded for the agency of respectable and selected landholders. An experiment, with a similar object in view, has been tried in the Lahore Division during the last year, and the Lieutenant Governor is of opinion that a scheme should be worked out, in accordance with which the assistance of men of local influence may be brought permanently to the support of the regular police. The landholders selected might be entrusted with defined police powers over a certain number of contiguous villages, and would be responsible for the report and detection of crimes committed within their areas.

2. Such an arrangement, when matured, would permit the reduction of many police posts, whilst it would enlist the coöperation of the leading men in rural districts with the Government machinery for the suppression of crime.

3. It will be incumbent on the controlling authorities to protect landholders, employed as above proposed, from vexatious interference on the part of the police. They should be treated by the Government officers with much consideration.

4. You will be good enough to communicate with the Commissioners of Divisions to carry out the above suggestions, reporting, from time to time, the arrangements made. The measure is one of much importance, and the Lieutenant Governor is desirous that it should be introduced under your personal supervision.

No 161, dated 18th May 1861, from Secretary to Government Punjab, to the Judicial Commissioner, Punjab.

I am directed to acknowledge your letter No. 237, dated 2nd instant, regarding the Honorary Police Officers of the Siálkot district.

2. You demur to the Commissioner's proposals on two grounds :—

First—That the necessity for such additional re-inforcement of the Police is not, in the particular district, fully established ;

Secondly.—That the charge ought, more properly, to fall on the Police department, than upon the general revenues.

3. The Lieutenant Governor concurs with you in thinking that the allocation of these Police Chaudhris requires further consideration; and in this, and in all similar cases, His Honor desires that the following procedure may be followed:—

It is incumbent on every District Officer, before proposing that Honorary Police officers be appointed in certain localities, to obtain the opinion of the District Superintendent of Police on his arrangements. The Superintendent will act under such orders as he may receive from his departmental superior.

Under existing circumstances, the District Officer will commonly be able to point out the localities in which Honorary Police Officers can best be employed as auxiliaries to the regular constabulary. He should, therefore, deliver a complete statement of his proposals, together with an illustrative sketch map, to the Police Superintendent, who will deal with them under the instructions received from his superior, and will ultimately return them with the recorded opinion of the Police authorities. The District Officer will then, without delay, submit the whole proceedings to the Commissioner, who will, in due course, pass them on to you for submission to the Local Government.

When the appointment and allocation of the Police Chaudhris have been determined by Government, the opinion of the Financial Commissioner will be taken regarding the District Officer's recommendations for their remuneration, and the proportion in which it should be charged to the Police department and the general revenues.

It is to be understood that the Police department is not expected to enter into the question of remuneration. This will be decided by the Lieutenant Governor in the Financial Department.

4. His Honor believes that, by the procedure above prescribed, both your objections will be met; that no unnecessary appointments will be made, and that the cost of the arrangement will be fairly adjusted.

XII.—WATCH AND WARD OF VILLAGES,—LAHORE AND DELHI DIVISION.

Extract paras. 2 to 4 of a letter No. 462—3295, dated 31st August 1860, from Judicial Commissioner, Punjab, to Secretary to Government Punjab.

2. I think that the time has come for reforming the old chaukidari system in the Punjab, and I strongly recommend that the experiment proposed by the Deputy Commissioner of Lahore in the 6th para. of his letter be tried, *viz.*, to withdraw the chaukidars of the smaller villages, which at present club together to support their chaukidars, and also of the villages which have a chaukidar apiece, provided that the people wish it, and the village bears a good character. The villages from which the chaukidars are withdrawn might then make their own arrangements, the head-men being bound under penal recognizances to report crime, and not to harbour bad characters. In larger villages, having more than one chaukidar each, existing arrangements might continue undisturbed at present.

3. Mr. Egerton might be authorized to introduce the measure into two, if not three, thanahs, and these should, I think, be Kanhakachha, Chhabíl on the road to Amritsar, and Kasúr, where there is a resident Extra Assistant.

4. Similarly, I would authorize the Deputy Commissioner of Fírozpur to try the experiment in two or three selected thanahs of his district.

Extract para. 1 of letter No. 560, dated 10th September 1860, from Secretary to Government Punjab, to Judicial Commissioner Punjab.

I am directed to acknowledge your letter No. 462 of 31st ultimo, on the subject of village chaukidars, and to inform you that the Honorable the Lieutenant Governor fully and entirely concurs in the views expressed in your communication.

Extract para. 1 of letter No. 621—4458, dated 17th November 1860, from the Judicial Commissioner of the Punjab, to the Secretary to Government, Punjab.

I have the honor to submit, for the perusal and orders of His Honor the Lieutenant Governor, a letter, in original, from the Commissioner of Dehli, recommending that the lambardars of Ballabgarh be allowed to make their own arrangements for watch and ward in that parganah.

Extract from a letter No. 217, dated 10th November 1860, from the Commissioner and Superintendent Dehli Division, to the Judicial Commissioner of the Punjab.

* * * It is proposed to take an agreement from the Lambardars to report crimes, and leave the number, pay and appointment of chaukidars, or the non-appointment of any chaukidars at all, entirely to their pleasure, merely requiring them to notify to the District Officer the arrangements they may make. In badmaash villages the chaukidars will of course be appointed by the District Officer, for such period as he might find necessary.

Extract paras. 1 and 2 of letter No. 772, dated 21st November 1860, from the Secretary to Government Punjab, to the Judicial Commissioner Punjab.

I am directed to return the original enclosure of your letter No. 621, dated 17th instant, and to inform you that the Honorable the Lieutenant Governor sanctions your recommendation to the effect that the lambardars of Ballabgarh be allowed to make their own arrangements for the watch and ward of the parganah.

2. The zamindars must, however, be responsible for the report, as well as the detection of crime, under the orders lately received from the Supreme Government.

Extract para. 7 of a letter No. 248, dated 31st December 1860, from the Commissioner and Superintendent Dehli Division, to the Judicial Commissioner of the Punjab.

7. The consequence of the system referred to having been recognized in Ballabgarh, has been that numerous petitions have been received from the villages in our old parganahs for the same privilege being extended to them, and all agreeing to be responsible for any thefts. Mr. Cooper wants to introduce it at once everywhere

in his district. I don't quite recommend that, at least all at once, but I think a number of the best conducted villages might be selected in each district, with Commissioner's sanction, for the experiment, and the villagers allowed to make their own arrangements for watch and ward, on the same terms as those granted to Ballabgarh The system might be extended according as it was found to succeed, and even hitherto "badmaash" villages might be informed that unexceptional good conduct for the space of a year would give them a claim also.

Copy of a docket No. 14, dated 8th January 1861, from the Secretary to Government Punjab, to the Judicial Commissioner Punjab.

Reply to No. 6—22, dated, 3rd instant. Approves of the proposal, as modified by the Commissioner of Dehli, for extending to good villages of the Dehli district the system of watch and ward lately sanctioned for Ballabgarh.

Adds that the Commissioner may extend the system throughout his Division on the same principle.

XIII.—USE OF INFLATED SKINS TO CROSS RIVERS.

Extract paras. 1 to 3 of No. 137, dated 20th March 1860, from the Judicial Commissioner for the Punjab, to the Secretary to Government, Punjab.

I have the honor to forward, in original, for submission to His Honor the Lieutenant Governor, documents marginally * noted, relative to restrictions being placed on the passage of rivers by persons on inflated skins or buoys.

2. It apears that, though not authoritatively introduced, (as on the Indus and Lower Chanáb,) yet restrictions of some kind, more or less uniform, exist on the Satlaj, Biás and Ravi, in the Cis-Satlaj States, Trans Satlaj States, and Lahore Divisions. They apparently were first introduced during the mutiny, and have never been discontinued.

3. The question now is, whether authoritatively to introduce the Indus and Lower Chanáb rules on the abovesaid rivers in these Divisions, or to discontinue restrictions in these Divisions.

Copy of No. 174, dated 28th March 1860, from Secretary to Government Punjab, to the Judicial Commissioner.

In reply to your letter No. 137, dated 20th instant, ... I am directed to inform you that the Lieutenant Governor is of opinion that it would not be convenient to prohibit entirely the use of inflated skins for crossing the rivers by the people generally, but that his Honor has no objection to certain restrictions being placed upon the practice, according as they may be determined by the Commissioner.

The Indus and Lower Chanáb rules are contained in the following correspondence :—

Copy of a letter No. 243, dated 11th October 1854, from Commissioner Multan Division, to the Judicial Commissioner of the Punjab.

I have the honor to acknowledge the receipt of your letter No. 2730, of the 5th instant, with enclosures, regarding the use of

* The references are not printed.

inflated skins for crossing rivers at other places than the public ferries.

2. The use of inflated skins or buoys is very common on all the rivers in this Division. To the herdsmen who graze their cattle on the meadows and islands in the rivers, and to some cultivators who till tracts of low land in the channels of the streams, their use is indispensable, as there are no other means of access to the lands abovementioned. But these buoys are also used by travellers from the interior as a means of transit, and they often form a portion of the equipment of professional thieves and cattle-lifters, and it is through the aid of these articles that they are enabled to cross the rivers at places distant from the public ferries, and to avoid the pursuit of the Police.

3. While District Officer, my attention has often been directed to the adoption of some measure which, without interfering with the legitimate use of inflated skins, by those who absolutely require their aid, should prevent their being converted into a means for facilitating crime. I had no authority to prohibit the use of these articles, and I therefore instructed the police to avoid interfering with their use by cultivators and cattle-feeders on the rivers, but that when any traveller from the interior, or any person not a cultivator or cattle-feeder near the rivers, was discovered making use of buoys, they were authorized to detain the party until he could give satisfaction as to his character and intentions.

4. I believe, however, that these measures have not been found sufficiently stringent, and I would recommend the adoption of stricter means of prohibition. The use or possession of inflated skins or buoys of any kind should be declared illegal, except under cover of a license, on plain paper, to be granted by the District Officer. The granting of such licenses should be restricted to persons residing near the rivers, and who absolutely require to use buoys for legal purposes. The possession of a buoy should subject the possessor to the penalties prescribed for the illegal possession of arms, and the actual use of the article should be punished as an act of bad livelihood. Buoys found without owners, within the limits of a village, should subject the lambardar to a fine, and, in default, to imprisonment for neglect of duty. All parties possessing buoys should be directed by a proclamation to deliver them up, or to apply for a license on or before a certain date, under penalty of being punished for illegal possession of the prohibited article.

5. If it is considered advisable to adopt these measures, it will be necessary to obtain the coöperation of the authorities in the Bahawalpur State.

Extract para. 5 of letter No. 326, dated 6th November 1854, from the Judicial Commissioner, to Secretary to Chief Commissioner Punjab.

5. I am of opinion that Major Hamilton's propositions, contained in para. 4 of his letter, are good, are capable of being carried out, and worthy of a trial, at any rate in those districts where crime is most rife. Further that, should crime at any time increase, and it was found that landholders on the banks of the river did not give assistance, as a punishment for a term, after sanction had been received, crossing on skins might be totally prohibited till crime ceased.

Copy of letter No. 524, dated 17th November 1854, from Secretary to Chief Commissioner Punjab, to the Judicial Commissioner of the Punjab.

I am directed to reply to your letter No. 326, dated the 6th instant, with its enclosures. After weighing the considerations adduced by the several Commissioners who have been consulted, the Chief Commissioner is of opinion that a rule prohibiting the crossing of the Indus and its tributaries by other means than the authorized ferries, could hardly be rendered absolute, nor applicable without exception, nor easily enforced. He still, however, thinks that, while cultivators, graziers and feeders on the banks of the river are permitted the use of inflated skins, some rule may be framed by which bad characters may be interdicted from the facility hereby afforded.

2. With the above view, the Chief Commissioner is disposed to concur in the opinion expressed in para. 4 of letter of Commissioner of Multan, and in the concluding para. of your own letter under reply, and he authorizes your issuing a proclamation to that effect through the Commissioners of Peshawar, Jehlam, Leiah, and Multan, after further conference with those officers as to details, if you consider it necessary.

3. You can declare that the use or possession of buoys, mashaks, or sarnais, without license from the District Officer, is illegal and punishable as a misdemeanour. The District Officers will be instructed to issue such licenses to the heads of agricultural or pastoral communities on the banks of the river, and to other respectable parties who are not likely to abuse the privilege. The holders of such permission will be responsible that their buoys are not perverted to purposes of crime or other misconduct. The police will bring before the Magistrate all persons found infringing the rules.

NOTE.—See the observations made upon these rules, *ante*, p. 66.

XIV.—RECOVERY OF FINES IMPOSED ON RESIDENTS OF FOREIGN TERRITORY.

Copy of a docket No. 51, dated 19th January 1861, from the Secretary to Government Punjab, to the Judicial Commissioner Punjab.

Reply to No. 27—172, dated 14th instant, approves of the proposed Circular being issued relative to recovery of fines from residents of Foreign territory for offences committed within the British territory. Returns original enclosure.

The Circular referred to was issued by the Judicial Commissioner as Book No. VIII, (No. 11) of 22nd January 1861. In addition to the recovery of fines imposed or residents of Foreign territory, it provided for the mode of realizing compensation for losses sustained by British subjects plundered in Foreign territory. It was as follows:—

1. The attention of Government having been drawn to the subject of realizing fines awarded by our Courts against criminals whose homes are in foreign territory, for offences committed in our territory, I have the honor, with the concurrence of the Lieutenant Governor, to issue the following instructions.

2. District officers are not to require the vakíls attached to their Courts to collect the fines. The only course they should adopt is to record the fine, and to acquaint the prisoner's relatives through the vakíl. These instructions apply equally to a fine awarded as a penalty, and to a fine awarded under Act XVI of 1850. If the fine be not paid, the prisoner must undergo an additional term of imprisonment as by law provided, and sentences should be carefully worded accordingly.

3. In regard to compensation for losses sustained by individuals, residents of our territory, plundered in foreign territory, the existing practice is to remain undisturbed. That is, district officers will communicate their award to the Commissioner of their Division, for realization. In respect to Chiefships connected with the Cis-Satlaj States, for which Mr. Barnes has been appointed Agent to the Lieutenant Governor, Commissioners will exercise their discretion as to enforcing the awards themselves, or referring them to that officer. Ordinarily, where they have a vakíl from the Chief concerned attached to their Courts, they may realize the award themselves.

NOTE.—The only provision in this Circular which can be considered as of the nature of a law, is that relating to the recovery of compensation for thefts committed in Foreign territory, a practice which has grown up under the sanction of Government. This also is probably to be regarded more as an international rule than as a law.

XV.—PROHIBITION OF THE GRANT OF THE SERVICES OF CONVICTS TO PRIVATE INDIVIDUALS.

Copy of Circular No. 1907, dated the 5th August 1848, from the Secretary to the Government of India, Foreign Department, to the Resident at Lahore.

In transmitting for your information the accompanying extract (para. 76) from the Hon'ble Court's despatch No. 19, dated 8th September 1847, I am directed by the Governor General in Council to request that regard may be paid to the injunctions therein contained.

Extract from a Despatch from the Hon'ble the Court of Directors of the Eas India Company, No. 19, dated the 8th September 1847, para. 76.

76. This statement exhibits the practice, only recently abolished, of granting the services of convicts to private individuals, in a still more objectionable light than it had previously appeared. We desire that means be taken of ascertaining that such an abuse no longer prevails at any station, or in any department.

116. In answer to an enquiry by Court, Mr. Hamilton reported that no equivalent had ever been given by individuals for the value of the labor of the convicts employed by them.

NOTE.—This rule was issued for the Cis and Trans-Satlaj States, then under the Resident at Lahore, and probably also for other territories under the Government of India. Though not expressly extended to the Punjab, there can be no doubt that the principle is that which would now be applied. No necessity for making such a rule seems at present to exist, but if it were considered necessary, it could probably be made by the Local Government under Section 54 of the Prisons' Act, 1870—Act XXVI of 1870.

XVI.—LIST OF RULES OMITTED AS NO LONGER IN FORCE.

Government of India No. 1116, dated 2nd July 1849, to Board of Administration, with reference to Board's Circular to all Commissioners, and to Deputy Commissioners, Peshawar and Hazarah, on the subject of impressment of workmen and provision of supplies for the Public Works Department.—*Paras. 2 to 4 of Government No. 231, dated 13th June 1849, show that these instructions were intended to have a temporary application only, and they may now be regarded as obsolete.*

Government of India No. 3450, dated 8th August 1853, communicated to Commissioner Leiah, by Chief Commissioner's No. 677, dated 19th August 1853.—Prohibition of certain hill tribes from entering the Derajat under a penalty of imprisonment with labor.

Government of India No. 273, dated 2nd December 1853, conveying the approval of the Governor General in Council to the proceedings of the Chief Commissioner in excluding a tribe of Afrídís, occupying part of the Kohat pass, from the plains, and rendering our subjects who might harbour those so excluded punishable by fine.—*Vide paras. 26 and 27 of No. 865, dated 11th November 1853, from Chief Commissioner to Government.*

Government of India No. 122, dated 21st May 1857, in reply to Chief Commissioner's No. 318, dated 27th April 1857.—Prohibition of members of the Khetrani tribe from entering our territory, unless property stolen by them were restored by a fixed date. Rewards offered for their apprehension after that date, and their property found in our territory to be confiscated.

In the last three cases, the orders were evidently of a temporary character, and are now obsolete. The measures taken might be looked upon as purely of an international character, unless where they extend to British subjects.

Government of India No. 2862, dated 24th June 1853, to Chief Commissioner, being orders of the Governor General in Council on the Punjab Administration Report for 1849-50 and 1850-51.—Employment of convicts on out-door labor to be abandoned.—*This is now superseded by Section 54 of Act XXVI of 1870.—Vide Judicial Commissioner's Circular 52, dated 12th September 1853.*

Cantonment Rules for the administration of Criminal Justice, made in 1854.—*Vide remarks ante, p. 60.*

Government of India No. 2476, dated 9th June 1854, to the Chief Commissioner, sanctioning a Police establishment for the Hill Cantonments of Dagshai, Kasaoli and Sabáthu, chargeable to the Abkari income, and the levy of a small cess at each station to pay for a night watch.—*This is believed to be quite obsolete. Act XX of* 1856 *was extended to these Cantonments in* 1869, *under the Cantonments' Act, XXII of* 1864, *Section* 14.

Government of India No. 1359, dated 31st July 1857. Rules for guidance of Civil Officers in dealing with mutineers, published in *Punjab Gazette* dated 5th September 1857.

Government of India No. 4972, dated 3rd December 1858, directing that no sentence of death, under the penal acts of 1857, should be carried out without Chief Commissioner's sanction.—Notification published in *Punjab Gazette* of 25th December 1858.

Government of India No. 4443, dated 15th November 1858, forwarding copy of the orders addressed to the Government of Bengal with reference to the Royal Act of Amnesty. *Vide Punjab Gazette* of 18th December 1858.

Government of India No. 5120, dated 8th December 1858, with reference to the certificate to be given to Native Officers and soldiers submitting to the Civil authorities under the Amnesty Proclamation.

Government of India No. 5208, dated 13th December 1858, conveying orders as to the interpretation of, and course of action upon the amnesty, published in *Punjab Gazette* dated 5th January 1859.

Government of India No. 5437, dated 28th December 1858, conveying instructions as to treatment of mutineers and rebels surrendering after 1st January 1859.—*Punjab Gazette* of 5th January 1859.

Government of India No. 582, dated 6th December 1858, to Bengal Government (forwarded for information and guidance to the Punjab Government).—Disposal of cases of sepoys who murdered their officers, published in *Punjab Gazette* dated 18th December 1858.

Punjab Government No. 431, dated 28th May 1859, to Judicial Commissioner, and Government of India's No. 3509

dated June 1859, to Punjab Government.—Pardoned rebels not to be allowed to leave their villages without permission.—*Judicial Commissioner's Book Circular No. XXXII*—65, *dated* 31*st May* 1859.

All these orders relating to the mutiny, and probably also Government of India No. 818, *dated* 10*th July* 1857, *extending the powers of the Chief Commissioner, which I have not been able to obtain, may apparently be now regarded as obsolete. Trials for offences committed during the mutiny would no doubt be held under the general Criminal Law.*

Punjab Government No. 922, dated 4th November 1859, to Judicial Commissioner, authorizing the punishment by flogging of persons concealing weapons during the search for arms then going on in the Dehli and Hissar Divisions.—*This, it was expressly stated, was to be regarded as an exceptional measure, not to be generally enforced thereafter. It was therefore only a temporary rule.*

Punjab Government No. 257, dated 31st March 1859, and No. 349, dated 2nd May 1859, to Judicial Commissioner.—Punishment of widows living in concubinage and their seducers. —*Vide remarks, ante p.* 62.

Punjab Government No. 466, dated 7th June 1859.—Summary disposal of cases of perjury.—*Superseded by the Indian Penal Code.*

Punjab Government No. 783, dated 14th September 1859, to Judicial Commissioner.—Flogging as an alternative for fine unpaid under Act XVIII of 1853.—*Superseded by Act XXII of* 1864.—*Vide remarks, ante p.* 63.

Punjab Government No. 86, dated 21st February 1860, to Judicial Commissioner.—Rules as to conditional pardon. —*Superseded by Criminal Procedure Code.*—*Vide remarks, ante, p.* 66.

Punjab Government No. 477, dated 5th July 1861, to Judicial Commissioner, restricting appeals from Deputy Commissioners in criminal cases,—the authority for Judicial Commissioner's Book Circular No. L—84 of 1861.—*Superseded by Criminal Procedure Code.*

ADDENDUM TO CHAPTER II.

SLAUGHTER OF KINE.

(*Vide remarks ante, p.* 73.)

Copy of letter No. 2730, dated 19th November 1847, from the Secretary to the Government of India, with the Governor General, to the Commissioner and Superintendent, Trans-Satlaj States.

I have the honor to acknowledge the receipt of your despatch dated the 29th October, No. 216, reporting on the disturbance lately created by the Hindus in consequence of the erection of a butcher's shop for the slaughter of kine near the town of Jalandhar.

2. The Governor General approves of your conduct throughout this affair, and desires that you will follow the system observed generally in British India, not hurting the feelings and prejudices of the Hindus by any ostentatious display in allowing slaughter-houses in public places; but you will at the same time give full effect to kine killing, regulated by the same general rules as to shops for the sale, and places for the slaughter of cattle, as are observed in our own Provinces.

NOTE.—This letter contains the only rule upon the subject expressly made for the Trans-Satlaj States. Its existence may account for the orders of 1849 not having been communicated at the time to the Commissioner, Trans-Satlaj States.

CHAPTER III.

CIVIL LAW AND PROCEDURE.

Rules for Civil Judicature.

By para. 10 of the despatch constituting the Board of Administration (No. 418, dated 31st March 1849,) it was prescribed "that the rules for Civil Judicature" should "be the same as those in force in the Satlaj Provinces." Some slight modifications in these rules were subsequently authorized by Government of India No. 311, dated 25th May 1850, *(printed with Board's Circular 27, dated 30th June 1850, page 92 of Board's Judicial Circulars)* and No. 1561, dated 20th May 1852.

Punjab Civil Code.

In 1854, the Judicial Commissioner's "Principles of Law, with a proposed form of Procedure," commonly known as the "Punjab Civil Code," was circulated for the guidance of all officers in the Judicial Department, and from that time the rules sanctioned in 1849 were rarely referred to, though of late years they have been occasionally cited as containing the authority for the observance of the Regulations by the Civil Courts in all cases not specially provided for. The authority of the Principles of Law will be discussed at length in one of the Appendices to this Chapter.

Changes in the Law of Limitation in 1856.

The first change of importance in the general law was the reduction of the period of limitation within which actions for debt and contracts may be brought, from 12 years to six, by letter from Under Secretary to Government of India, No. 5239 A, dated 17th October 1856. This change was brought into operation from 1st May 1857, under orders contained in Government of India letters No. 469, dated 30th January 1857, and No. 954, dated 27th February 1857.

Changes proposed in 1858.

In 1858 the Judicial Commissioner, with a letter No. 461, dated 28th September, submitted a Minute proposing various modifications of the Civil Law and Procedure of the Punjab,—among others, a further reduction of the term of limitation applicable to suits. On

some of the points noticed by the Judicial Commissioner, the Chief Commissioner, considering the proposed improvements to to be of an executive character, directed that they should be carried out, and asked that the approval of the Supreme Government might be accorded to his proceedings. In regard to the remainder, which he did not consider himself empowered to dispose of, he requested the sanction of the Supreme Government. The Governor General's orders on the subject were conveyed in Under Secretary's No. 585, dated 20th January 1859. All the measures proposed by the Chief Commissioner, including those of which he had himself sanctioned the adoption, were approved of. On one or two points no action was ultimately taken, but in other respects the necessary orders were issued in Judicial Commissioner's Circulars No. 101 to No. 104 of 1858, and No. XI—29 dated 14th March 1859.

Change in the Law of Limitation as to suits heard on the Revenue side.

The law of limitation which should be made applicable to regular suits regarding land or the produce of land was discussed separately, these suits having, some years before, been transferred to the Revenue side of the Courts, and the final appellate jurisdiction from the Judicial to the Financial Commissioner. In July 1860, the Financial Commissioner proposed limitation rules to be enforced in all regular suits from the 1st July 1861, and these were sanctioned with some modifications by the Lieutenant Governor (*Secretary to Punjab Government's No.* 1193, *dated* 21*st August* 1860, *to the Financial Commissioner*), and were issued in Financial Commissioner's Circular No. XLVI—95 dated 12th October 1860. In the same Circular, and also under the Lieutenant Governor's authority, the limits between the Civil and the Revenue jurisdictions were defined, and summary suits were classified. On the two latter points slight alterations were afterwards made by Secretary to Lieutenant Governor's No. 279, dated 15th February 1861, to Financial Commissioner. The changes effected by these orders in the period of limitation were afterwards approved by the Governor General in letter No. 59, dated 7th December 1860, from Secretary to Government of India, to Secretary to Government Punjab.

Present law of limitation.

The terms of limitation fixed by these various orders from 1856 to 1860 have been superseded by the introduction of Act XIV of 1859 from the 1st

January 1867,* even where they were shorter than those prescribed by that Act, it having been laid down in para. 9 of Chief Court Circular No. XV of 1867 that Section 3 of the Act does not keep in force any general rules of limitation, but only laws specially fixing shorter terms for particular cases.

Order as to adoption of Civil Procedure Code.

By order of the President in Council, dated 4th November 1859, the introduction in all Non-regulation provinces, of the Code of Civil Procedure as an authoritative guide, supplementary to existing rules and subordinate to them in authority, was directed. It is unnecessary to discuss the question how far a rule made by the President in Council would have the force of law under the Indian Councils' Act, as the Code of Civil Procedure has been extended to the Punjab and its dependencies, with certain limitations, from the 1st October 1866, and has superseded all rules of procedure previously existing.

Claims to attached property.

Before the introduction of the Code itself, the procedure prescribed in it with regard to claims to property attached in execution of decree, had been substituted for that contained in the Procedure division of the Punjab Civil Code, by Judicial Commissioner's Book Circular No. XI—15 dated 30th January 1861, the issue of which was approved of by Punjab Government docket No. 60, dated 28th January.

Disputes connected with religious institutions.

By a Circular issued by the Chief Commissioner in 1858, No. 23, dated 25th August, instructions were given as to the action of Civil Officers in regard to disputes among parties connected with shrines, temples, mosques, tombs, and other institutions of a similar character. A question having been raised in 1859 as to whether this Circular would bar the cognizance of a suit by the headmen of villages adjoining a temple to have the head of the shrine removed for the profligacy of his conduct, the Lieutenant Governor decided (*Secretary's No. 266, dated 4th April 1859, to the Judicial Commissioner,*) that such a suit was with-

* Though these rules are no longer in force, how important it still is to be able to refer to them in connection with cases originally instituted before Act XIV of 1859 took their place, is illustrated by the Privy Council case of *Narayan Das* v. *the Estate of the ex-King of Dehli*, decided 10th June 1867, in which it was argued before the Privy Council that the Lower Court had erroneously applied the six years' term of limitation to a bonded debt though Act XIV of 1859 was not in force in the Punjab in 1860, and it was not pointed out in reply that the six years term was established by the rules which came into force on the 1st of October 1859, and had been in force in the Punjab from the 1st May 1857.

in the jurisdiction of the Civil Court, and that his predecessor's Circular did not prohibit the entertainment of the claim. The Judicial Commissioner made this decision generally known by his Book Circular No. XXI—42, dated 8th April 1859. The Chief Commissioner's Circular of course had not the force of law before it was thus recognized by the Lieutenant Governor, but it is not improbable that it might be held that the Lieutenant Governor, by recognizing and interpreting it, so made the rules contained in it as to give them the force of law. Whether this would be so or not is of little importance now, as those rules have been superseded by Sections 14 to 20 of Act XX of 1863. It may, however, be noted, that the Circular of the Chief Commissioner affords an instance of the Punjab Civil Code being treated as containing rules binding upon the Courts of this Province.

Custody of wives.

The provisions of Section VI of Part I of the Punjab Civil Code, as to the custody of a wife's person, came under discussion in 1859, and by Secretary to Punjab Government's No. 956, dated 19th November 1859, to the Judicial Commissioner, it was ruled that the correct interpretation was that the Civil Court might, if satisfied that the woman would be well treated, order her to be made over to her husband, and, if necessary, enforce its order. This construction was made the foundation of a Circular issued by the Judicial Commissioner, No. LXXXI—144 dated 23rd November 1859. A Circular modifying the instructions then given was submitted for the approval of the Lieutenant Governor by the Judicial Commissioner's No. 23, dated 30th July 1860, and its issue was sanctioned by the Lieutenant Governor in a letter dated August 1861. It was accordingly issued as Book Circular No. XXXV—71 of 1860.

Pre-emption.

In 1860 the Financial Commissioner proposed certain rules relating to the right of pre-emption. One of these was sanctioned by Lieutenant Governor, in Secretary's letter No. 1238 dated 29th August 1860, to the Financial Commissioner, but apparently never published.

Petitions taken by Tahsildars.

By Punjab Government No. 534, dated 25th July 1861, the Lieutenant Governor approved of a Circular proposed to be issued by Judicial Commissioner, authorizing Tahsildars to received petitions in cases within their competency. The Circular was accordingly

issued on the 1st August as No. LV—98 of 1861.

The rules which have been noted hitherto, are all general in their operation. There are, however, other rules on subjects belonging to Civil Justice, the operation of which is more limited.

Transfer of women in the Simlah Hills for '*rit*.'

In 1851 a custom prevalent in the Simlah hills of transferring women for a fixed sum of money, regarded as their market-value, from their fathers to suitors wishing to take them in marriage, or from one husband to another, attracted the attention of the Board of Administration. In a Minute by Mr. Mansel, the Junior Member of the Board, measures were proposed to put a stop to the practice, both in the Protected Hill States, and in the territory under British rule. These measures were sanctioned, with one exception, by the Governor General in Council, in letter No. 479, dated 5th March 1852, to the Board.

Kangra Betrothal Rules.

Among the measures sanctioned in the Government letter No. 585, dated 20th January 1859, to the Board of Administration, one (the 8th,) was that a reference to certain local rules which had been drawn up for the regulation of betrothals and marriages in the Kangra district should be introduced into the Punjab Civil Code. These rules were orginally contained in an agreement, purporting to have been entered into by the inhabitants of that district, which was forwarded with a memorandum on the subject, and some supplementary rules, by Mr. Forsyth, the Deputy Commissioner, to Mr. McLeod (now Sir Donald) with a letter No. 110, dated 6th April 1854. * Mr. McLeod discussed the subject in a letter to the Judicial Commissioner, No. 90, dated 15th April 1854, and the Judicial Commissioner laid the papers before the Chief Commissioner, who expressed his approval of what had been done in the matter, in his Secretary's No. 279, dated 12th June 1854, to the Judicial Commissioner. In 1856 several changes in the rules were proposed by Mr. Jenkins, the then Deputy Commissioner, and by Major Lake, the Commissioner. Mr. McLeod, who was then Financial Commissioner, was consulted, and furnished a memorandum on the subject in February 1857, containing proposals, which were approved by the

* The correspondence is printed at pp. 216 to 240 of the 2nd volume of Selections from the Records of the Punjab Administration; the Rules follow at pp. 240 to 248.

Chief Commissioner in his Secretary's letter No. 182, dated 1st March 1857, to the Judicial Commissioner. The rules of 1854, as thus modified, appear to have been those which the Judicial Commissioner, in 1858, requested sanction to circulate for the guidance of officers in the Kangra district, referring to them in the Punjab Civil Code. Further changes, being partly a return to the rules of 1854, and partly the substitution for some of them of others taken from Judicial Commissioner's Circular 102 of 1858, the rules contained in which were among those sanctioned by Government of India letter No. 585, dated 20th January 1859, were proposed by Mr. Melvill, Commissioner, in his No. 118, dated 11th July 1860, to the Judicial Commissioner, and were sanctioned by Punjab Government No. 468, dated 7th August 1860, to the Judicial Commissioner.

The local tribunals, to which the enforcement of these rules was entrusted, having been held to have no legal authority to decide cases since the passing of the Punjab Courts' Act, No. XIX of 1865, and not having been considered to have worked so well as to make it desirable to re-establish them, the rules are now apparently obsolete, except so far as they, in their latest form, have worked any change in the substantive law, or as they establish a system of registration of betrothals. Nor are the circumstances of Kangra so different from those of other parts of the Punjab, as to make it desirable that the laws relating to marriage and betrothal should be different there from what they are elsewhere. If these rules are really an improvement in the law, they should be extended throughout the Province; if not, they should be repealed.

A custom of the shawl-weaving trade not to be recognized.

In 1859 a question was raised by Mr. Cust, the Commissioner of Amritsar, whether the Civil Courts were bound to recognize a custom of the shawl-weaving trade, which is principally carried on by Kashmíris settled in Amritsar, Ludhianah, and other towns, by which the second employer of a workman is rendered liable for half the debts incurred by him for advances made by his former employer. The Lieutenant Governor decided that this custom should not be upheld by the Courts, and agreed with Mr. Cust that the master would be sufficiently protected by the enforcement of the provisions of Act XIII of 1859 on the criminal side of the Courts, that Act

having been extended to the Punjab under the powers conferred on the Executive Government by Section 5.

Service of Civil Process in Native States.

The question of the jurisdiction of the Civil Courts in cases in which residents of Native States were parties, was raised in 1848, with reference to the Cis-Satlaj States. In letters of that and the following year, from the Chief Commissioner Cis and Trans-Satlej States, to the Civil and Sessions Judge at Ambalah, and to the Commissioner Cis-Satlaj States, certain rules on the subject were laid down, and provision was made for the service of notices of suits brought against persons not found within the jurisdiction of the Courts, through the officers in Political charge of the States in which they resided.

In 1853, in consequence of a reference from the Civil Court at Dehli, the subject was again brought before the Chief Commissioner of the Punjab, and these orders were renewed. The correspondence of 1853 was circulated by the Commissioner, and was also made known by him to the Native States under his charge. In 1856 the Chief Commissioner directed that the orders of 1848 and 1849 should also be communicated to the Native States, and added some further instructions as to the procedure to be adopted in serving notices upon defendants resident in foreign territory.

The rules thus laid down were unpalatable to the Chiefs, and in a Paper of Requests submitted by them to the Governor General in 1858, they asked that claims against subjects of their States should not be entertained in the British Civil Courts. This request was not supported by the Chief Commissioner, who referred to the rule laid down in the Punjab Civil Code on the subject of the admission of such claims. The Governor General in Council considered that no change was necessary, and rejected the request in letter No. 3047, dated 25th May 1859, from Secretary to Government of India, to the Secretary to the Government of the Punjab. This order appears to have given the force of law to the rules issued in 1848 and afterwards.

The rules thus made for the Cis-Satlaj States were extended to the Native States in the Trans-Satlaj States by the Lieutenant Governor, in letter No. 177, dated 28th March 1860, to the Judicial Commissioner.

As regard service of process, these rules have now been superseded by Sections 60 and 66 of the Civil Procedure Code, and in other respects they simply stated the general law as to the jurisdiction of the Civil Courts. So long as Native States make the necessary arrangements for the delivery of registered letters in their territories, no difficulty can arise; but where such arrangements are not made, it might perhaps be a question whether these rules should not be retained. In order to make service under them sufficient, it would be necessary to amend the Civil Procedure Code.

Registration of Deeds.

The registration of deeds was provided for by Section XI of the Rules for the Administration of Civil Justice * (*post*, p. 142). Further rules were introduced in 1856, but they do not appear to have been sanctioned by the Governor General at the time. In Government of India letter No. 585, dated 20th July 1859, however, one of the measures sanctioned was that the registration of certain bonds should be made compulsory, and the existence of the local system of registration was thus, to a certain extent, recognized. In 1860 the Lieutenant Governor of the Punjab authorized an extension of the system by the appointment of Jagirdar Magistrates as Registrars, in letter No. 1366, dated 19th December 1860, to Judicial Commissioner. This letter authorized the issue of a Circular, to which certain rules for the guidance of the Jagirdar Registrars were annexed.—(*Judicial Commissioner's Book Circular No. LXVIII*—132, *dated 28th December* 1860.) Further orders were given as to the officers by whom registration should be effected, in Secretary to Punjab Government's No. 435, dated 20th June 1861. These were promulgated by Judicial Commissioner's Circular No. 80, dated 25th June 1861. The extension to the Punjab of the Indian Registration Act, 1866—(*No. XX of* 1866,) from the 1st January 1868, and the rules made under that Act, have entirely superseded all previous rules on this subject.

Introduction of stamps in Civil Suits.

Rules for the collection of stamp duties in the Cis and Trans-Satlaj States were issued in para. 3 of Government of India No. 1316, dated 15th June 1847, to the Commissioner, Cis-Satlaj States, and the same rules

* The first order on the subject seems to have been that contained in para. 4 of Government of India letter No. 1316, dated 15th June 1847, to the Commissioner, Cis-Satlaj States. Shortly after, offices of registry were ordered to be established in the Trans-Satlaj States by Government of India letter No. 203, dated 27th August 1847, to the Commissioner, Trans-Satlaj States.

were introduced into the Punjab by Government of India No. 782, dated 23rd May 1849, to the Board of Administration. This letter also prescribed an eight anna stamp for certain proceedings in Criminal, Revenue, and Miscellaneous cases. The rules made as to stamps in the Civil Courts are appended to the "Rules for the Administration of Civil Justice in the Punjab and Cis-Satlaj Provinces", published in 1849, and only differ from those laid down in the letter No. 1316, of 1847, in prescribing a stamp of eight annas for copies of decrees passed in Assistant's Court,—no express provision having been made for these copies in the rules of 1847. Instructions regarding stamps were issued by the Board on receipt of the Government letter, in their Revenue Circular No. 289, dated 29th June 1849, to all officers under the Board (*p.* 11 *of Revenue Circulars of the Board of Administration*). In that Circular (paras. 3 and 4) they excluded the operation of Schedule A, annexed to Regulation X of 1829, providing for documentary stamps, and, accordingly, until the passing of Act XXXVI of 1860, no stamps were required to give validity to documents in the Punjab, though, if not written upon an eight anna stamp, stamp paper of that value had to be filed with them when tendered in evidence.

APPENDICES.

I.—JURISDICTION OF CIVIL COURTS IN REGARD TO CASES ARISING BEFORE ANNEXATION.

Extract paras. 1 to 4 and 6, of a letter No. 326, of 8th September 1846, from the Secretary to the Government of India, with the Governor General, Foreign Department, to the Agent to the Governor General, North West Frontier.

I have the honor to acknowledge the receipt of your despatch of the 29th May last, No. 94, submitting the case of a murder that took place at Hushiárpur, some short time previous to our occupation of the Jallandhar.

2. In reply I am directed to communicate to you the following remarks, which will serve for your guidance in this, and all similar cases, for instance those referred to in your letter No. with enclosures.

3. The principle which has been invariably adopted in legislating on the subject of the administration of Civil and Criminal justice in newly acquired territories, has been to give to the Civil Courts the jurisdiction in cases in which the cause of action arose within 12 years prior to the acquisition, and to prohibit the Magistrates and Criminal Courts taking cognizance of any crime or offence committed previously to the date of acquisition.

4. The reason of this is, that it is proper and right that in the newly acquired territory substantial justice between man and man should be administered, and all private wrongs, susceptible of redress by Civil process according to the law of the country, should be redressed, but that the Government should not prosecute for an offence committed, not against it, but against the laws of the former Government.

6. If however the law of the country, a part of the territories of which have been transferred to us, sanctions any civil remedy in cases such as those under consideration, such remedy may be permitted to the party aggrieved; and it is believed that the practice of the Lahore Government was in criminal cases of all kinds to allow the expiation of the guilt of the offenders by a money payment, of which a large portion was assigned to the aggrieved parties or their family, as compensation for the injury received.

NOTE.—The rule above laid down for the Cis and Trans-Satlaj States was extended to the Punjab generally by the Board of Administration in their letter No. 130, dated 6th June, to the Commissioner of Multan, circulated to other Commissioners by their Circular No. 131 of 1849, *(p. 3 of the Board's Judicial Circulars)*. It cannot, however, be held to have had the force of law, except in the Cis and Trans Satlaj territories, for which it was made by the Governor General. The date adopted by the Board was that of the treaty of Bhairowál in December 1846, and not that of annexation, but the question whether it was the proper one, is of very little practical importance now.

II.—RULES FOR THE ADMINISTRATION OF CIVIL JUSTICE IN THE PUNJAB AND CIS-SATLAJ PROVINCE.

By letter No. 2594, dated 25th October 1847, from Government of India, in the Foreign Department, to the Commis-

sioner Cis-Satlaj States, and No. (not traced) to the Commissioner Trans-Satlaj States, certain printed Rules for the Administration of Civil Justice in the Cis and Trans-Satlaj territories were directed to be followed. By letter No. 1577, dated 1st July 1848, from Government of India in the Foreign Department, to the Chief Commissioner Cis and Trans-Satlaj States, (*ante, p.* 31) these rules were directed to be substituted at Simla for rules which had been laid down in 1842, for the guidance of the Civil Courts in the Simlah hills. In the despatch constituting the Board of Administration for the Affairs of the Punjab, (*No.* 418 *dated* 31*st March* 1849, *para.* 10) the Governor General directed that the rules for Civil Judicature should be the same as those in force in the Satlaj Provinces, and stated that several printed copies would shortly be furnished to the Board for distribution. Accordingly, the rules were reprinted at Mírat under the title of "Rules for the Administration of Civil Justice in the Punjab and Cis-Satlaj Province",* and, on receipt by the Board, were distributed to the Civil officers subordinate to them, in supersession of the previous rules, by the Board's Judicial Circular No. 216, dated 3rd July 1849, (*page.* 18 *of the volume of the Board's Judicial Circulars*). These rules relate principally to Civil Procedure, and are, of course, superseded by the Code of Civil Procedure and the Punjab Courts' Act (*No. XIX of* 1865) so far as those Acts have reference to the same subject, but as they formed the foundation of the Civil Procedure in force in the Punjab before the introduction of the Civil Procedure Code in 1866, and as they contain some provisions relating to subjects not included in that Code, they are here reprinted in full.

Section 12 is particularly important, as containing the direction that in all cases not specially provided for in the Rules, the Civil Courts should "endeavor to conform, as nearly as the circumstances of the case will permit, to the provisions of the Regulations in force in the Districts subordinate to the Lieutenant Governor North-Western Provinces"; this being apparently the only order introducing any of the Regulations relating to Civil Law or Procedure into the Punjab.

In the case of *Oram* v. *Hawkes* (*Punjab Record for* 1868, *Civil Judgments, page* 48,) the Chief Court held with reference

* Rules for the Administration of Civil Justice in the Punjab and Cis-Satlaj Province, published by order of the Right Honorable the Governor General of India, Meerut, 1849.

to this Section, that "although the rules speak only of Regulations, they must be understood not to refer only to the laws called by that name, made before 1834, but to refer equally to the laws made by the Governor General in Council after that date ;—laws which in fact were made under the same authority, and by the same power, notwithstanding that laws made after 1834 were called by a different name, not found in the Statute, *viz.*, Acts."

RULES FOR THE ADMINISTRATION OF CIVIL JUSTICE IN THE PUNJAB AND CIS-SATLAJ PROVINCE.

Section I.—On jurisdiction.

The European Functionaries, are to be the Deputy Commissioners, their Assistants, and the Commissioner.

All petitions of plaint, to be presented to the Deputy Commissioner, who may refer suits for small amounts, to the Assistant Commissioners, Covenanted or Uncovenanted.

Clause First.—The functionaries empowered to administer Civil Justice in the Punjab and Cis-Sutlej Province, are the Commissioners, the Deputy Commissioners, and their Assistants. The Deputy Commissioner, or Officer in charge of a District, is to try all suits for property, moveable or immoveable, of a value exceeding one thousand rupees; but suits for smaller amounts may be tried by Assistant Commissioners, Covenanted or Uncovenanted, according as the Deputy Commissioner may determine. In the term Uncovenanted Assistants are included Deputy Collectors, Adalutees, and Kardars; and no native officer of this description shall take cognizance of any suit to which his own relation or dependant may be a party.

An appeal shall lie from the decision of a Deputy Commissioner to the Commissioner.

Second.—An appeal shall lie, under the provisions stated in the sequel, from the decision of a Deputy Commissioner or Officer in charge of a District, to the Commissioner.

Commissioner's decision to be ordinarily final.

Third.—The decisions of the Commissioner will, ordinarily, be final; but the Board of Administration, on cause being shewn by a dissatisfied party, or in the event of such course appearing from a perusal of the periodical returns or from any other cause desirable, will call for the record of any Civil case, and pass such orders thereon as may seem fit.

NOTE.—With clauses 1 to 3, compare No. 418 of 1849, from Government to Board, para. 11, *(ante, p. 15.)*

The Deputy Commissioner competent to remove any cause pending in a lower Court, to his own or any other Court.

Fourth.—The Deputy Commissioner or Officer in charge of a District, is competent to remove to his own, or any other Court under him, any cause that may be pending in a lower Court, recording his reasons for so doing.

Fifth.—In suits for land,* the value is to be calculated at the amount of the gross annual proceeds accruing to the party sued. If the suit be for gardens or houses, their value is to be reckoned at their market return.

In suits for land or houses, value how to be reckoned.

Sixth.—Twelve years is to be the period of limitation within which, from the date of the transaction wherein it originates, a suit must be instituted, unless the complainant can shew by clear and positive proof that he had demanded the money or matter in question, and that the defendant had admitted the truth of the demand, or promised to pay the money; or that he directly preferred his claim, within the period for the matters in dispute, to a Court of competent jurisdiction to try the demand, and shall assign satisfactory reasons to the Court, why he did not proceed in the suit; or shall prove that either from minority or other good and sufficient cause he had been precluded from obtaining redress. The period of limitation to be calculated from the date of the last transaction in running accounts.

Limitation of period for the institution of suits in the Cis-Sutlej States.†

Seventh.—A suit for money or personal property shall be instituted in the Court of the Deputy Commissioner, or Assistant Commissioner of the district, within which the defendant resides as a fixed inhabitant.‡ In the event of his having changed his residence subsequently to the date on which the cause of action may have arisen, it shall be optional with the plaintiff to commence his action in the Court of the district within which the defendant may actually reside, or in that of the district in which the cause of action may have arisen. Suits for damages, on account of injury done to personal character, are to be instituted, at the discretion of the party complaining, either in the Court of the District within which the defendant resides, or in that of the District in which the act complained of was committed, and must be preferred within three months of occurrence. The amount of damages to be awarded is to be fixed by the officer presiding over the Court in which suits may be tried, who will, in all such cases, endeavour to obtain, if possible, the aid of a Jury, or of a few Native Assessors. A suit for land, or other immoveable property, shall be instituted in the Court of the district wherein such property is situated.

Suits for money or personal property to be instituted in the Court of the Deputy Commissioners, or Assistants of the district where the Defendant resides.

Suits for damages on account of injury done to personal character, in what Court to be instituted.

Amount of damages to be fixed by the Court in which the suit may be tried; the aid of Jury or Native Assessors to be obtained if possible.

Eighth.—The Civil authorities of one district are to cause all legal processes issued by those of another district, which may be sent to them for the purpose of being carried into effect within their jurisdiction, to be duly executed; and the returns thereon are to be made, and duly forwarded to the officer by

The Civil Authorities of one district how to act, when legal processes issued by those of another

* Vide note at page 145.

† The reference in the marginal note to the Cis-Satlej States of course does not limit the operation of this clause. It appears to have arisen from the fact that these Rules were originally made for the Cis and Trans-Satlej States.

‡ *Vide* Judicial Circular of Board, No. 38 of 1852.

district may be sent to them for the purpose of being carried into effect.

whom the process was issued within the term originally specified therein, or in the event of that being impossible, a full statement of the cause of the delay, and of the probable time within which a full return may be expected, must be furnished by the authority receiving a process, to the officer by whom it was issued. It is to be distinctly understood, that in such cases, it rests with the authority issuing a process, to decide upon the admissibility of any excuse that may be urged against its being carried into execution.

Commissioner, Deputy Commissioners and Assistants, competent to punish any party guilty of the contempt of their authority, or of gross contumacy or disrespect.

Ninth.—The Commissioner, the Deputy Commissioners in charge of Districts, and the Assistants, are declared competent to sentence any party guilty of a gross contempt of their lawful authority, or of gross contumacy or disrespect, to pay a fine not exceeding two hundred rupees, commutable to imprisonment without labor for a period not exceeding six months; such cases in the inferior Courts to be reported to the Commissioner, for revisal or confirmation.

Dismissal of ministerial officers.

Tenth.—The officer presiding in a Civil Court may suspend or dismiss any ministerial officer convicted of misconduct, whose pay does not exceed thirty rupees per mensem. As regards those drawing higher salaries, he must report for the sanction of the Commissioner. In all cases the order for suspension or dismissal is open to the usual appeal.

Section II.—On original suit.

If the suit be for land, houses or money, and the Deputy Commissioner, or his Assistant, see no cause to reject it, a notice must be issued to the defendant to file a reply within 15 days.

In the event of the reply not being filed within 15 days, proclamation to be affixed to the abode of the defendant, calling upon him to file one within 15 days.

On the expiration of the 2nd period, case to be tried *ex-parte*.

On a reply being filed, ten days to be allowed to the plaintiff to rejoin, and 5 to the defendant to file a replication.

Clause First.—If the suit be for land, houses, or money due on a bond, agreement, or commercial transaction, (and the Deputy Commissioner or his Assistant, shall not see cause to reject the same as frivolous or vexatious, under the discretion allowed in the sequel of this section,) a written notice must, after numbering the petition of plaint according to its place in the yearly list, be issued calling upon the defendant to file a written reply within fifteen days; in the event of the reply not being filed within that period, a proclamation is to be affixed, if possible, to the abode of the defendant, and a copy of it to be affixed in the Court room, calling upon the defendant to file a reply within fifteen days from its date. On the expiration of the second period, if no reply be filed, the case is to be tried *ex-parte*. On a reply being filed within the prescribed period, the plaintiff is to be asked if he wishes to rejoin, and on his answering in the affirmative, ten days are to be allowed for that purpose; and five days for a replication, in the event of the defendant wishing to file one. If the plaintiff fail to prosecute his suit for six weeks, without valid cause assigned, it will be thrown out with costs.

Parties may bring up their own witnesses, or have *subpœnas* served upon them by Peadas.

Witnesses failing to attend upon this process and proclamation, to be fined, and the fine levied by the sale of their property.

Parties to indemnify witnesses for expenses incurred by them.

Court passing final decisions shall include whatever sum, not exceeding the rate of three annas per diem, may have been paid to witnesses, among the costs of suit.

Second.—On the pleadings being completed in the manner above prescribed, the parties are to produce their proofs. The parties are to be allowed an option of bringing up their own witnesses, or of having *subpœnas* served upon them by Peadas. If the witnesses fail upon this process to attend, a proclamation fixing a term for their appearance is to be issued, at the expiration of which, if still absent, a fine is to be imposed, to be levied by the attachment and sale of their property. Parties applying for a process to enforce the attendance of witnesses, shall, on doing so, declare that they are ready to indemnify the said witnesses for any necessary expenses to be incurred by them in attending before the Court; and the Court, in passing a final decision upon the case, shall include whatever sum, not exceeding the rate of three annas per diem, may be proved to have been paid to witnesses for their subsistence, among the costs of suit.

Depositions to be taken down in writing in the Oordoo language in the presence of the Deputy Commissioner, or Assistant.

The Deputy Commissioner or Assistant to pass judgment in open Court, and record the substance of it in a book before he shall quit the Court. Decisions afterwards to be drawn up in the usual form, and copies tendered to parties.

Third.—When the witnesses shall be in attendance, their depositions are to be taken down in writing in the Oordoo language, in the presence of the officer presiding in the Court. On the whole evidence, documentary and parole, being filed, the Deputy Commissioner, or Assistant, is to proceed to pass judgment in open Court, recording the substance of his decision immediately, in his own hand-writing, in a book to be kept by him for that purpose, and attesting the entry therein made by his signature before he shall quit the Court. The decision is afterwards to be drawn up by the officers of the Court, detailing simply the points at issue and the grounds of decision, and attested copies of it are to be tendered to the parties or their Agents.

Deputy Commissioner, or Assistant, at liberty to reject a petition of plaint. Parties dissatisfied with the order of rejection may appeal to the Commissioner, who may direct the Deputy Commissioner, or Assistant, to admit and proceed upon the same as a regular suit.

Fourth.—If the petition of plaint in an original suit presented to a Deputy Commissioner in charge of a district, or an Assistant, shall appear to him to be *primâ facie* inadmissible, or shall prove to be so after a summary inquiry into its merits, he is at liberty to reject the same, without bringing it on his regular file, and without calling upon the defendant for a reply; but parties discontented with such order of rejection may appeal to the Commissioner, who may, after calling for the petition and proceedings held upon it, direct the Deputy Commissioner, or Assistant, to admit and proceed upon the same as a regular suit.

Fifth.—The Deputy Commissioner, or Assistant, may insist on the attendance, in person, both of the plaintiff and defendant, in any original suit; and he is strongly enjoined, in all cases in which it shall be practicable, so to confront them as at once to elicit the truth and abridge the necessity of further legal proceedings; and in all cases in which such meeting of the parties can be effected, their depositions shall be recorded and taken to be the plaint and reply in the suit, and care should be taken that they depose to the point at issue, and that no irrelevant matter is recorded. But any party feeling aggrieved by such a requisition, may appeal to the Commissioner, who is hereby empowered to cause it to be withdrawn, recording his reasons for doing so at length in his proceedings. It is also to be understood that the filing of a petition of appeal by a plaintiff against such a requisition shall bar its enforcement, pending the reference to the Commissioner.

The Deputy Commissioner, or Assistant, may insist on the attendance both of the plaintiff and defendant, and examine them on oath before bringing the suit on his file.

In all cases in which the meeting of the parties can be effected, their deposition shall be taken to be plaint and reply.

Any party aggrieved may appeal to the Commissioner, and the execution of the order shall be stayed pending the appeal.

Sixth.—Whenever a plaintiff may satisfy the Deputy Commissioner, or Assistant, within whose District he may have a suit pending, either in that Officer's own Court, or in any of the inferior Courts, that the defendant, against whom a suit has been brought, is about to abscond or withdraw himself from the jurisdiction of the District Courts, the Deputy Commissioner, or Assistant, may either demand security for the appearance of the said defendant, or attach his property. If the defendant in such a case cannot produce security, or should not possess property, the Deputy Commissioner, or Assistant, may arrest and place him in the Civil Jail of his District, provided the plaintiff deposit money for his subsistence, according of the usual rates allowed to persons imprisoned in executing decrees. The Deputy Commissioner, or Assistant, in such cases, shall try the suit without reference to its order on the file.

The Deputy Commissioner, or Assistant, on being satisfied that the defendant is about to abscond or withdraw himself from the jurisdiction, may demand security from him, or attach his property, or commit him to Jail.

Seventh.—The several Courts are hereby authorized to use every proper means for inducing the parties in suits to refer their disputes to arbitration, either with the view of settling some particular issue, or of obtaining a complete and final adjustment of their differences. An agreement shall, in such cases, be taken from the parties, in which it shall be distinctly stated whether the award is to be partial, that is, confined to a particular issue, or final, as embracing the whole merits of the case. In the former case, the Court will take the finding of the arbitrators as conclusive upon the particular point referred to them; in the latter case, the award of the arbitrators shall, if open to no just cause of impeachment on the score of flagrant and palpable partiality, be confirmed by the Courts, and held of the same force and validity as a regular judgment. Arbitrators shall be

The Courts authorized to use every proper means for inducing parties to refer their disputes to arbitration.

Award of arbitrators, if open to no just cause of impeachment on the score of partiality, to be held by the Courts of the same validity as a regular judgment.

appointed by the parties themselves, and shall, by general consent, name their own President or Sirpunch. If they do not, the presiding Officer shall supply the omission. Questions of account, inheritance, landed tenures, caste and marriage, should, as a general rule, be referred to arbitration, or tried by punchayet, composed of three or five persons, to be paid by a per centage, not to exceed 5 per cent. of the assessed damages, or the amount decreed.

Any party desirous of instituting an original suit as a pauper, must appear in person and present his petition to the Deputy Commissioner or Assistant, who may, in special cases, receive it through an authorized Agent.

Eighth.—Any party desirous of instituting an original suit as a pauper, must appear in person before the Deputy Commissioner, or Assistant, and present a petition containing a general statement of the nature and grounds of the demand,—of the value of the thing claimed,—the name of the person or persons to be sued,—and a schedule of the whole real or personal property belonging to the petitioner, with the estimated value of such property. In special cases the Deputy Commissioner, or Assistant, may receive such petitions through an authorized Agent, or Mookhtar. On the receipt of such a petition, the Deputy Commissioner, or Assistant, shall institute a summary enquiry with the view of ascertaining the accuracy of the petitioner's allegations regarding his own circumstances. If satisfied of their accuracy, the Deputy Commissioner, or Assistant, is to admit the petitioner to sue as a pauper; but if the result of the enquiry shall not be satisfactory, the Deputy Commissioner or Assistant, will at once refuse to admit his suit in that form, and will refer him to the general rules in force. All orders passed by a Deputy Commissioner, or an Assistant, under the provisions of this clause, are to be open to revision by the Commissioner, if appealed against within the term of three months from the date on which they are passed.

Deputy Commissioner or Assistant, may admit the petitioner to sue as a pauper, or refuse to admit his suit in that form; such orders declared open to revisions by the Commissioner.

Form of proceeding to be adopted on a suit being instituted against a European or Native Officer, or Soldier.

Ninth.—If a suit be instituted against a European or Native Officer, or Soldier, a notice in the usual form shall be sent, with a copy of the plaint, to the Commanding Officer of the Corps to which the said Officer or Soldier may belong. The Commanding Officer shall return such notice, with the written acknowledgement of the party endorsed thereon, or a statement of the cause which has prevented the service of it, and the Court before whom the suit may be pending may then proceed to dispose of the case under the general rules. Provided always, that in such cases, every process that may issued, is to be served through the Commanding Officer of the Corps to which the party may belong.

Section III.—Appeals.

Petitions of appeal from the decision of an Assistant to be presented within two months to the Deputy Commissioner.

Clause First.—Parties discontented with the decision of an Assistant, in any suit tried in the first instance before him, may, within the period of two months from the date of such decision, present a petition of appeal to the Deputy Commissioner.

Petition of appeal from the decision of a Deputy Commissioner to be presented to the Commissioner within two months.

Second.—In like manner, parties discontented with the decision of a Deputy Commissioner, in a suit tried by him in the first instance, may, within the period of two months from the date of such decision, present an appeal to the Commissioner.

Special appeals, if presented within three months from the date of the decision, may be received by the Deputy Commissioner from the judgment of an Assistant.

Third.—When it may appear necessary for the ends of justice, in consequence of a decision being at variance with some existing law or established custom of the country, or in consequence of the subsequent discovery of new evidence, or for any other good and sufficient reason, to be fully detailed in the order for its admission, that a special or second appeal should be admitted, such appeal, if presented within three months from the date of the decision, may be received by the Commissioner from the judgment of a Deputy Commissioner, by the Board from the decision of the Commissioner. It is to be distinctly understood also, that no second appeal is to be received on any but the special grounds alluded to in this section. When, however, it shall appear that the judgment against which the appeal is preferred is clearly in opposition to, or inconsistent with, another decree of the same Court, or of another Court having jurisdiction in the same suit. or in a suit founded on a similar cause of action, a second or special appeal shall, in all such cases, be admitted.

By the Commissioner from the decision of a Deputy Commissioner, and by the Board from the decision of the Commissioner.

On an appeal being preferred to the Deputy Commissioner, or Commissioner, they need not summon the respondent in the first instance, but merely call for the proceedings; and, on perusal of them, in the presence of the Appellant or his Agent, to confirm the decision appealed from, or allow an appeal.

If the decision be confirmed, respondent must be warned that he may sue out execution.

If the appeal be allowed, notice must be given to the respondent, to defend the appeal.

If the respondent fail to attend within

Fourth.—Whenever an appeal shall be preferred to the Deputy Commissioner. from an Assistant's decision, or to the Commissioner from the Deputy Commissioner's decision, it shall not be necessary to summon the respondent, in the first instance, but merely to call for the original record of the proceedings in the case ; and if, after the perusal of the same, in the presence of the Appellant or his Agent, the Commissioner or Deputy Commissioner, as the case may be, shall see no reason to alter the decision appealed from, it shall be competent to them to confirm the same, communicating the order for confirmation, through the Court from whose judgment the appeal was made, to the respondent, with a view of enabling him to take measures for carrying the decision in his favor into execution. Should an appeal be allowed, a notice must be issued to the respondent ; at the expiration of the term assigned in which, the Deputy Commissioner, or Commissioner, as the case may be, shall, after receiving the respondent's reply to the petition of appeal, proceed to try and decide the merits of the appeal, and shall pass a decision, confirming, modifying or reversing, the decision of the Assistant, or Deputy Commissioner. If the respondent fail

the period fixed in the notice, the appeal is to be tried *exparte*.

to attend within the period fixed in the notice the appeal is to be tried *exparte*.

Fifth.—The Commissioner or Deputy Commissioner, as the case may be, is empowered to call for further evidence in a case appealed, or to refer the case back to the Assistant, or Deputy Commissioner, for re-investigation, if it appear to have been imperfectly enquired into.

Appellate Courts empowered to call for further evidence in a case appealed, or to refer it back for re-investigation.

Sixth.—The Board, Commissioner, or Deputy Commissioner, may admit appeals after the expiration of the term above fixed for their presentation, on its being clearly shewn that the appellant was prevented by some insurmountable obstacle from presenting the same within the prescribed term.

Appellate Courts may admit appeals after the expiration of the term fixed for their presentation, on sufficient cause for the delay being shewn.

Seventh.—The execution of a decree, passed by an Assistant or Deputy Commissioner, shall not, excepting in the particular case provided for below, be stayed, notwithstanding an appeal; unless the appellant give security for the due fulfilment of the decree. Should he fail in furnishing security, the respondent is at liberty to cause the decree to be carried into execution, on giving security for performing the final order to be passed by the higher Court.

The execution of a decree shall not be stayed, except in the particular case provided for below.

Eighth.—It is, however, to be understood, that the superior Court by whom the appeal is admitted is competent to stay the execution of a decree, pending the trial of such appeal, even without exacting security from the appellant. But the reasons for the exercise of this power are, in every instance, to be entered at large in the order issued to the inferior Court.

The superior Court admitting an appeal, declared competent to stay the execution of a decree without exacting security.

Reasons for the exercise of this power to be recorded in the order issued to the inferior Court.

Ninth.—Security for the costs of an appeal is to be lodged when the petition of regular appeal is presented. In cases of special appeal, the security-bond for the costs is not to be exacted until after such special appeal shall have been admitted. Should the appellant fail to observe this condition, a notice is to be issued, allowing him a term of six weeks, at the expiration of which, if the security be not furnished, his right of appeal is to be held to be forfeited, and the decision of the lower Court to be put in force, if required by the opposite party.

Security for the costs of an appeal to be lodged with the petition of appeal.

In special appeals security not to be required till the appeal is admitted.

Right of appeal forfeited by failure to furnish security after six week's notice.

NOTE.—It was made discretionary with the Appellate Court to require or dispense with security for costs by letter No. 311 dated 25th May 1850, from Secretary to Government with the Governor General.—*Board's Judicial Circular No.* 27 *of* 1850.

Rules laid down in clauses 7, 8, and 9, Section II, regarding Arbitrators, Paupers, and Military Defendants, in original suits, declared applicable to the case of appeals.

Tenth.—The rules laid down in clauses 7, 8, and 9, of Section II, on the subject of Arbitrators, Paupers, and Military Defendants, in original suits, are to be held applicable to the case of appeals.

Section IV.—Vukeels or Pleaders.

Parties may plead in person, or appoint licensed pleaders to do so, making whatever terms they please with the Vukeels, as to the amount of remuneration to be allowed to them.

In awarding costs against a party cast, 5 per cent. to be charged on the value of the property litigated on account of the successful party's Vukeel's fees.

Any further sum agreed upon, the Vakeel must recover from his employer.

Clause First.—Parties preferring to plead in person, are to be permitted to do so, but if any party chooses to appoint a Vukeel, he may employ any person who may have obtained a licence to plead, and he and the Vukeel may make whatever terms they please as to the amount of remuneration to be allowed to the said Vakeel, which must be specified in the Vukalutnamah. In awarding costs against a party cast in any action, no larger sum shall be charged on account of fees of the Vukeel of the successful party, than 5 per cent on the value of the property litigated. Any further sum to which the Vukeel may be entitled, under the agreement concluded between him and his employer, must be recovered by him from his employer.

Attendance of suitors encouraged.

Second.—Though Vukeels are allowed by the proceding Section, the attendance of suitors, with or without such aid, should be encouraged as much as may be practicable.

NOTE.—*Vide* Board's Judicial Circular 37 of 1851, and Government of India No. 1131, dated 16th April 1852.

Section V.—Execution of decrees.

Petitions for the warrant to enforce a decree to be presented to the Deputy Commissioner, or Assistant, who will be guided by the following rules.

Clause First—Every petitioner praying for a warrant to enforce a decree, whether given in the Court of the Commissioner, the Deputy Commissioner, or Assistant, is to present his petition to the Deputy Commissioner, or else to the Assistant, who will be guided in his proceedings by the following rules.

Petitions to be presented within one year from the date of the decree.

Exception.

Second.—Petitions for the enforcement of decrees must be presented within the term of one year from the date on which such decree is passed. If it shall, however, appear to any Deputy Commissioner, or Assistant, to whom such a petition may be presented, after the expiration of the term above prescribed, that good and sufficient reason is shewn

for the delay, he may state the case for the consideration of the Commissioner, who is competent to sanction such decree being under such circumstances put in force.

Dustuck to be issued for the arrest of the party cast, in cases not in the predicament of those mentioned in clauses 7 and 8 of Section III: should he absent himself, or fail to pay, his property to be attached and sold, and the proceeds applied to satisfying the demands of the claimant.

Third.—In cases not in the predicament of those specially provided for in clauses 7 and 8 of Section III, a dustuck for the arrest of the party cast, in the event of his not paying the amount awarded against him, is first to be issued: should he absent himself, or fail to pay, the peada entrusted with the enforcement of the process shall attach all his moveable property, of which he will take an inventory, and give it over in charge of some respectable person of the village, taking a receipt for the same, which is to be lodged in the Deputy Commissioner, or Assistant's Court. The property shall be sold as hereafter provided, and its proceeds applied to satisfying the demands of the claimant.

Or the landed property of the party cast is to be attached.

A communication to be made to the Officer in charge of the District, through whom landed property may be attached in all instances.

List of attached property to be sent to Commissioner for authority to dispose of it.

Fourth.—Should the amount thus realized not satisfy the decree, all the immoveable and landed property of the party cast is to be attached by the Nazir, in the presence of some of his neighbours, by the erection of a post, or other mark that may be intelligible to the people; a communication being at the same time made to the Officer in charge of the District, through whom, if it be deemed preferable. the attachment of such property may, in all instances, be made. The Deputy Commissioner is to send up to the Court of the Commissioner a list of all such property for authority to dispose of it. On the expiration of the period fixed by the Commissioner, the property is to be sold in the presence of the Officer in charge, who will remit the proceeds to the Deputy Commissioner, to be applied to discharge the balance of the decree.

Moveable property to be disposed of by the Nazir, or a Mohurrir.

Amount to be paid over to claimant, or deposited in the Deputy Commissioner's Court.

A deduction of 5 per cent to be made, which the Nazir is to be allowed to retain.

Fifth.—Orders are to be given from the Court of the Deputy Commissioner to the Nazir, to dispose of moveable property attached, on receipt of which the Nazir shall proclaim the sale, which is to take place in fifteen days; at the expiration of which period, should the property be near to the Sudder Station of the District, it is to be sold in the Nazir's presence, if at a distance, he is required to send out a Mohurrir to conduct the sale. If the claimant be present at the time, the amount of proceeds arising from the sale is to be paid over to him on his granting a receipt; if he be absent, the amount is to be deposited in the Court of the Deputy Commissioner, and a deduction of 5 per cent. to be made from the proceeds, which the Nazir is to be allowed to retain to cover the expenses of the sale.

Should the proceeds not satisfy the decree, and the claimant deposit cash for the subsistence of the debtor, he may be placed in Jail.

He may, in like manner, be placed in Jail, if arrested by the Peada entrusted with the dustuck issued in the first instance.

Sixth.—In the event of the proceeds arising from the sale of the debtor's moveable, as well as immoveable property, not satisfying the amount of the decree, and the claimant petitioning for the arrest of the debtor, he is to be required, at the same time, to deposit money for his subsistence, when the debtor may be placed in Jail. It is to understood that the debtor may, in like manner, be placed in Jail, in the event of his arrest by the Peada entrusted with the dustuck, which is in the first instance to be issued, provided the claimant lodge funds for his subsistence.

NOTE.—Heirs of deceased parties are only liable for debts when they have inherited property to the extent of the value of the property thus inherited, and are not liable to imprisonment should no assets be forthcoming.

The party applying for the arrest of another, required to lodge funds for his subsistence for two months.

At the expiration of the first, for two months more.

Should he fail to do so before the first two months expire, debtor to be released, and not liable to any further process of arrest.

Except on proof of dishonest conduct.

Seventh.—The party applying for the arrest of another for the amount of a decree, is required to lodge with the Nazir for his subsistence, funds for two months. At the expiration of the first month, the claimant to be called on to lodge funds for two more months' subsistence. If he should fail to lodge the amount before the expiration of the first two months, the Nazir to report to the Deputy Commissioner, who will release the debtor; and no debtor so released is to be liable to any further process of arrest on the same matter, at the instance of the same party, unless it be proved that he was guilty of dishonest conduct in the fraudulent concealment or transfer of any property that would otherwise have been available for the satisfaction of the decree or other demand, on account of which he may have been originally confined.

Rates for debtor's subsistence not to exceed three annas, or to be lower than one anna per diem.

Eighth.—Rates for the subsistence of debtors shall not exceed three annas, except in special cases, or be lower than one anna per diem, to be fixed by the Deputy Commissioner or Assistant, according to the rank of the debtor.

Concealment of property to evade execution of a decree, or to sue as a pauper, as also any act of violent resistance to the enforcement of a decree, declared a misdemeanor, punishable by a fine or imprisonment without labor, for one year, or by imprisonment alone.

Ninth.—The fraudulent concealment of property with a view to evading the execution of decrees, or of obtaining permission to sue as a pauper, as also any overt act of violent resistance to the enforcement of a decree or order of a Civil Court, is to be accounted a misdemeanor, punishable on conviction by a fine not exceeding two hundred rupees, commutable to imprisonment without labor for a term not exceeding one year, or by imprisonment alone for that period.

The Court enforcing a decree, may order the release of debtors in confinement, upon their surrendering their property in satisfaction of the judgment passed.

Tenth.—If the debtor or debtors in confinement, shall give in a statement upon oath, containing a full and fair disclosure of all property belonging to them, the Court enforcing a decree may cause enquiry to be made for the purposes of ascertaining the truth of such statement, or the validity of any objections thereto which may be offered by the party at whose instance the prisoner or prisoners may be in confinement, and if the result of such enquiry shall satisfy the Court that the statement so delivered is true and faithful, the Court may accept the surrender of the property included therein, and upon surrender thereof, in satisfaction of the judgment passed, order the release of the person or persons in confinement.

Should a claimant discover more of a debtor's property after his release, the same may be attached and disposed of by the Deputy Commissioner or Assistant.

Eleventh.—Should a claimant, after the release of a debtor, give in a petition, setting forth that he has discovered more of his property, the same may be attached by the Deputy Commissioner, or Assistant, and disposed of, as is already enjoined, to satisfy the balance of the decree.

If the Deputy Commissioner, or Assistant, see cause for the release of a debtor, although funds for his subsistence are lodged, he is required to report to the Commissioner, who may order the release of the debtor.

Twelfth.—If the Deputy Commissioner, or Assistant, should see special cause for the release of a debtor, although the claimant may have lodged the funds for his subsistence, he is required to send up to the Court of the Commissioner a detailed statement, on which the Commissioner, if he thinks proper, may order the release of the debtor.

Specification of period of personal confinement in satisfaction of a decree.

Thirteenth.—No person shall be liable to personal confinement in satisfaction of a decree for any sum not exceeding fifty rupees, beyond a period of six months. If a decree be for a sum exceeding fifty rupees, the party cast may be detained for a term of one year. It is to be distinctly understood, however, that liberation from personal restraint under this clause is to be no bar to such further process against the property of a person so discharged, as the party holding a decree against him may find occasion to resort to.

Liberation from personal restraint to be no bar to process against the property of a person discharged.

Persons causing the property of others to be attached along with that of the debtor, declared liable to be punished for a misdemeanor.

Fourteenth.—Should any person or persons report to the Deputy Commissioner, or Assistant, that part of their property has been attached along with that of the debtor's, he is required to investigate the case, and should it appear to him that the allegation is correct, and that the act was committed from malicious motives, he is to make over the offenders to the Foujdary Court, to be there punished for a misdemeanor.

Court passing or enforcing a decree, declared competent, if no property be pointed out, to take security for the liquidation of the amount due, by instalments.

Fifteenth.—If at the time of passing or of executing a decree, it shall be proved that no property can be pointed out from which the judgment can be immediately enforced, it shall be competent to the Court passing, enforcing, or revising such decree, to accept an engagement from the party against whom it is passed, on his surety (under sufficient Malzaminee or Hazirzaminee security,) for the liquidation of the amount due by instalments, and to cause execution of the decree in conformity therewith. In such cases, if the party executing or delivering the engagement shall have been taken into custody, he shall be immediately discharged, and shall not be liable to further arrest in the execution of the judgment to which such engagement may refer, except on failure to perform the terms of it; nor shall any interest be chargeable in such instances, beyond what may be provided for in the engagement.

If the party delivering the engagement be in custody, he shall be discharged and not liable to further arrest, unless he fail to perform the terms of it; interest to be charged only according to the engagement.

Sixteenth.—The amount paid for subsistence is to be repaid by the party in confinement on his release, when property may be forthcoming from which it may be realized; but when no property can be so pointed out, a party shall not be kept in confinement for the repayment of such money only.

No party shall be kept in confinement for the repayment of subsistence money only.

Deputy Commissioners empowered to make over applications for the execution of decrees to the Assistants.

Seventeenth.—The Deputy Commissioners are empowered to make over applications for the execution of decrees to the Assistants, who, in acting upon the same, will be guided by the preceding rules.

Section VI.—On the Nazir and his peons.

Nazir of the Deputy Commissioner's Court to conduct the duties of the Assistants.

Clause First.—The Nazir of the Court of the Deputy Commissioner is required to conduct the duties in the Courts of the Assistants.

Second.—A Register of all Peadas who are to be employed in the Court of the Deputy Commissioners, and Assistants, shall be keep in the Court of the Deputy Commissioners, or Assistants, and none other are to be employed. The allowance of those employed in all the Courts is to be three annas per diem. The Nazir to be remunerated with a fourth of the allowance for Peadas. The Commissioner may, if he thinks proper, direct security for appearance when required, to be furnished by each Peada on the establishment.

Register to be kept of the Peadas.

Their allowance to be three annas per diem.

The Nazir to be remunerated with a fourth of such allowance. Commissioner may direct Peadas to furnish security.

Third.—Prior to the employment of any Peada, the person on whose business they are to be employed is required to lodge the amount of their allowance with the Nazir, who is required to endorse his receipt for the same, specifying the amount lodged on the back of the warrant which the Peada is to serve. The Peada, on the process being executed, must sign a receipt on the reverse of the warrant for the amount of his allowance.

Allowance of Peadas to be lodged by the person on whose business they are to be employed.

Fourth.—The period to be allowed for warrants to be served by the Peadas must be regulated by the Deputy Commissioner, with reference to distance.

Period for the service of the warrants to be regulated by the Deputy Commissioner.

Section VII.—On Records.

Clause First.—A register of all original suits, as well as of appeals, shall be kept by all officers, in which are to be distinctly set forth the date on which each case was filed, and if referred, to what Court. The records of all offices not below that of an Assistant Commissioner, to be kept separate. Those of Kardars, to be kept with those of the Court referring the case.

Registers of all original suits and appeals to be kept by all Officers.

Second.—All decisions in the Courts are to be recorded in the Oordoo language and character, or in the written language best known in the district, and are to exhibit the names of plaintiffs and defendants, the amount sued for, as well as the number, date, and order of arrangement of the documents attached to the proceedings, with every other necessary particular.

All decisions to be written in the Oordoo language, and contain certain particulars.

Section VIII.—On Mortgages.

Clause First.—If the property mortgaged has been held from the date of the mortgage by the mortgagee, the party who has mortgaged the same, shall, on paying, or tendering, or depositing in Court, the full amount due on the mortgage deed, be entitled, on the expiration of the term specified in the deed, to recover possession of the same.

Party who has mortgaged property, declared entitled to recover possession of it on the expiration of the term of mortgage, on tendering amount due.

Second.—Whenever it shall appear that the profits accruing from the usufruct of the property ought, under the conditions of the transaction, to be received in lieu of interest, the payment, tender, or deposit of the principal of the sum borrowed, shall suffice to entitle the mortgagor to recover possession of the property mortgaged.

When the usufruct of the property ought to be received in lieu of interest, the payment, tender or deposit of the principal sum shall entitle the the mortgagor to recover possession.

Third.—In the event of any mortgagee refusing to receive the sum due to him, according to the conditions of the transaction, the mortgagor may deposit the sum thus due in the Court, and the officer presiding over the same shall then cause a notification to

Should any mortgagee refuse to receive the amount due to him, it may be

deposited in Court, by which he will be called upon to receive it within a given period.

be issued to the mortgagee, calling upon him, within a given period, to attend either in person or by representative, and receive the said money.

After the expiration of the period specified in the notification, the complainant may be replaced in the possession of the property mortgaged.

Fourth.—After the expiration of the period specified in the notification, the Deputy Commissioner, or Assistant, may proceed to conduct enquiry further into the merits of the case; and on its being satisfactorily established that the transaction was a *bonâ fide* mortgage, and that the party applying to the Court has deposited the full amount of what is thereon due to the mortgagee, the complainant may forthwith and without further suit be replaced in possession of the property mortgaged.

Mortgage how to be foreclosed.

Fifth.—When any person holding a deed of mortgage shall be desirous of foreclosing the same, he shall, after the expiration of the period specified in the deed, present, either in person or by representative, to the Court, a petition, with the orignal deed of mortgage appended to it, praying that the opposite party may be called upon to pay in the amount that may be due thereon.

Mortgagor to be called upon to pay the stipulated amount into Court, within one year from the date of notice.

Sixth.—The Officer presiding over the Court shall then cause a notice to be served on the mortgagor, and, in the event of his not being found, a proclamation shall be issued calling on the mortgagor to attend and pay the stipulated amount into Court, within the term of one year from the date on which such notice may be issued.

On the mortgagor's failing to attend or to pay, the mortgage shall be held to have foreclosed.

No lapse of time shall suffice to foreclose a mortgage, or convert a conditional, into an absolute, sale, until the provisions of clauses five and six shall be complied with.

Seventh.—In the event of the mortgagor failing, when thus summoned, to attend, or to pay in the sum required of him, on the expiration of the term above prescribed, the mortgage shall be held to have foreclosed. But it is hereby notified that no lapse of time shall suffice to foreclose a mortgage, or to convert a conditional, into an absolute, sale, until the provisions of the clauses 5 and 6 shall be complied with.

Mortgagee must bring a regular suit in order to acquire possession.

Eighth.—It is further necessary to explain, that the mortgagee thus applying to have his mortgage foreclosed, is not, if he be not in possession before, to be put in possession in consequence of such application, by a summary process, but must bring a regular suit in order to acquire possession against the mortgagor.

Whenever it shall appear that the sum lent, with legal interest, has been realized out of the profits de-

Ninth.—In every case of mortgage, the Court before which it may be tried shall enquire into the amount that may have accrued to the mortgagee from the proceeds of the estate, and make a corresponding deduction from the sum that must be paid in

rived from the possession of the property, the mortgage shall be held to have been redeemed; and the mortgagee liable to account to the mortgagor for any surplus that he may thus have appropriated.

order to procure the redemption of the same; and whenever it shall appear that the sum originally lent, with legal interest, has been realized out of the profits derived from the possession of the property, then the mortgage shall be held to have been from that date redeemed, and the mortgagee shall be held liable to account to the mortgagor for any surplus that he may thus have appropriated.

In cases in which no term is specified in the deed, parties may take advantage of this regulation at any time.

Tenth.—In cases in which no term is specified in the deed, the parties therein concerned may, at any period, take advantage of the provisions of this rule, either to redeem or foreclose the mortgage.

Section IX.—Summary Suits.

Deputy Commissioner shall hold the Summary Suit Court in his capacity of Collector, and the Assistant declared competent to do so with the sanction of the Commissioner.

Clause First.—The Deputy Commissioner in charge of a District shall hold the Summary Suit Court in his capacity of Collector. And it shall be competent to an Assistant to do so with the sanction of the Commissioner.

All complaints relative to rent or revenue accounts shall be received and decided in the Summary Suit Court.

Second.—All complaints relative to arrears, or undue exaction of rent, or disputed revenue accounts, shall be heard and decided in the Summary Suit Court.

No suit for rent, or the adjustment of revenue accounts, shall be received, unless preferred within three months from the close of the year to which they relate.

Third.—No suits for arrears, exactions of rent, or for the adjustment of revenue accounts, shall be received in the Summary Suit Court, unless it be preferred within three months from the close of the year to which they relate.

Parties convicted of unduly exacting or attempting to exact money, on the plea of revenue, declared liable to be fined or committed to the Civil jail.

Fourth.—Parties convicted in the Summary Suit Court of unduly exacting, or attempting to exact, money, on the plea of revenue or tulbana, or of extorting on any pretext whatever, shall be liable to be fined in a sum not exceeding four times the value of the amount extorted or wrongfully demanded: a portion of which may, at the discretion of the Summary Suit Court, be awarded as compensation to the party aggrieved. In the event of the fine not being paid, the party convicted may be committed to the Civil Jail for a term not exceeding one year.

Persons discontented with the decision of the Summary

Fifth.—Persons discontented with the decision of any Summary Suit Court, may appeal to the Commissioner, provided their petition of appeal be presented within six weeks from the date of the order

Suit Court, may appeal to the Commissioner, who may reject, or admit the appeal, and cancel or confirm the decision of the Summary Suit Court.

complained of. The Commissioner, if he sees no good and sufficient reason for revising the decision of the Summary Suit Court, may reject such petition of appeal, recording his reasons for doing so at length in his proceedings. If the Commissioner sees good cause for admitting the appeal, he may use his discretion as to staying the execution of the award of the Summary Suit Court. After revising the proceedings, the Commissioner may amend, cancel, or confirm the decision passed by the Summary Suit Court, and in doing so, he may, if he thinks proper, refer the party complaining to a regular Suit for redress.

Parties may, in the first instance, seek redress in the Civil Court, but such Court shall not take cognizance of the case unless the plaint be accompanied by the order of the Commissioner referring the party to a regular suit.

Proviso.

Sixth.—Parties preferring that course, may, in the first instance, seek redress in matters connected with arrears, or undue exaction or settlement of revenue accounts, by a regular suit in the Civil Court; but no Civil Court shall take cognizance of any matter pending before, or that has been adjudicated in the Summary Suit Court, unless the petition of plaint be accompanied by a copy of the order of the Commissioner by which the party is referred to a regular suit.

Section X. – Returns.

A Monthly Return of suits disposed of during the preceding month, to be furnished by the Assistants to the Deputy Commissioners.

Clause First.—The Assistants shall furnish the Deputy Commissioners with a Monthly Return of all suits disposed of in their Courts, during the preceding month.

Monthly Returns shall be made by the Deputy Commissioner to the Commissioner.

An Annual Report by the latter to the Board, and by Board to Governor General.

Second.—Monthly Returns shall be made by the Deputy Commissioner to the Commissioner, shewing the number of cases instituted and disposed of in the various Courts during the preceding month; and an Annual Report on the administration of Civil Justice shall be made by the Commissioner to the Board, and by the Board to the Governor General.

Section XI.—Registry of Deeds.

An Office for the Registry of Deeds to be established in each District.

An Office for the Registry of Deeds shall be established in the several Districts under the immediate charge of the Assistant, Covenanted or Uncovenanted, as the Commissioner shall determine. A single Book, to be made of paper of English manufacture, will, for the present, suffice; the pages of this book are to be numbered, and each leaf is to be signed with his initials by the

A fee of one rupee to be paid on the re-

gistry of a deed, and of eight annas on a copy being taken from the Registry Book.

The fees to be the perquisite of the Officer having charge of the books, who is to defray the expense of purchasing and preserving them. Registering of Deeds left optional with parties.

Officer entrusted with the Register, who is to certify at the end of the book how many pages it contains, and to affix his signature at full length, with the date, to the certificate. A fee of one rupee is to be paid on the Registry of any Deed; and a fee of eight annas on a copy being taken from the book. The fees are to be the perquisite of the officer having charge of the books, who is to defray the expense attending their purchase and preservation. It shall, for the present, be optional with parties to register deeds or not, as they think proper.

Section XII.

In all cases not provided for, the Commissioner and other functionaries to conform to the regulations in force in the Districts subordinate to the Lieutenant-Governor, N. W. Provinces.

In all cases not specially provided for in the preceding rules, the Commissioner and his Assistants shall endeavour to conform, as nearly as the circumstances of the case will permit, to the provisions of the Regulations in force in the Districts subordinate to the Lieutenant-Governor, N. W. Provinces; applying in all doubtful matters for instruction to the Board.

NOTE.—The rule of justice, equity, and good conscience, prescribed by Regulation III, 1793, Section 21, was extended to Benares by Regulation VII, 1795, Section, 11, and is also prescribed for guidance by Regulation II, 1803, Section 17, for the Ceded Provinces.

Rules for the Collection of Stamp Duties in the Punjab and Cis-Sutlej Province.

Section I.—The collection and management of the stamp duties shall be vested in the Deputy Commissioners in charge of Districts, and the Officers under their control, and shall be conducted through the agency of the treasurers of their offices, and the local Tehseeldars subordinate to them, the Stamp Darogah being considered one of the Treasury Officers, who, in lieu of pay, is to receive two per cent. of the value of stamps sold.

Section II.—Venders of stamps shall carefully write on the back of each piece of paper, vellum, parchment, or other material bearing the impression of the Government Stamps, on the Stamp being sold, or delivered by them, the date of sale and delivery, and also the name of the person to whom the same is delivered, and shall attest such endorsement with their signature, written in the manner commonly used by them, and any vender of stamps giving out or delivering any stamped paper, vellum, parchment, or other material, without writing on the back of each sheet or piece, his name and the date of sale and delivery, as aforesaid, shall, on conviction, forfeit for each and every piece of stamped paper, vellum, parchment, or other material so wrongfully given out or delivered by him, the sum of fifty rupees, when the value of the stamped paper or other material sold shall not exceed the sum of sixteen rupees; if the value of the stamped paper or other material so sold without due endorsement, shall exceed the sum of sixteen rupees, then the vender shall, for

every offence so committed, forfeit, on conviction, a sum equal to three times the value of the stamped paper so improperly sold by him.

Section III.—Copies of decrees in all regular original suits or appeals to bear the following stamp :—

	Rs.	A.	P.
In Assistant's Court, ...	*0	8	0
In Deputy Commissioner's Court, ...	1	0	0
In Commissioner's, or Civil Judge's Court, ...	2	0	0
All other copies of Judicial papers of any sort, ...	0	8	0

EXEMPTION.

Copies of decrees in appeal, involving an amount not exceeding 150 Rs., calculated as explained under the head of plaints, provided the application is made within six months from date of decree in appeal, ...	0	8	0
Copies of decrees in original suits, involving an amount not exceeding 400 rupees, calculated as above, provided the application is made within six months from date of decree, ...	0	8	0

Section IV.—Exhibits, Pleadings, Razeenamahs, Mookhteearnamahs, Vukalutnamahs, applications for witnesses, petitions, durkhasts or applications of every nature, addressed to any of the undermentioned authorities in relation to matters pending before them in their judicial capacities, to bear the following stamp :—

	Rs.	A	P.
If to Assistants and Deputy Commissioners, ...	0	4	0
If to Civil Judge or Commissioner, ...	0	8	0

Section V.—Plaints—Petitions of—in all suits instituted in the Dewanny Courts of these territories for the recovery of any sum of money, or to recover possession of any interest, matter, or thing, to be written upon stamp paper of the following value, and the Courts are prohibited filing any petition of complaint unless the said petition be written upon paper of the proper value and description. If the amount upon or value of the property claimed shall not exceed

Rupees 16	Rs.	0	8	0
Above 16 Rs., and not exceeding 32	,,	1	0	0
,, 32 ,, ... 64	,,	2	0	0
,, 64 ,, ... 150	,,	4	0	0
,, 150 ,, ... 300	,,	8	0	0
,, 300 ,, ... 800	,,	16	0	0
,, 800 ,, ... 1,600	,,	32	0	0
,, 1,600 ,, ... 3,000	,,	50	0	0
,, 3,000 ,, ... 5,000	,,	100	0	0
,, 5,000 ,, ... 10,000	,,	150	0	0
,, 10,000 ,, ... 15,000	,,	250	0	0
,, 15,000 ,, ... 25 000	,,	350	0	0
,, 25,000 ,, ... 50,000	,,	500	0	0
,, 50,000 ,, ... 1,00,000	,,	700	0	0
,, 1,00,000 ,, ...	,,	1,000	0	0

* No express provision was made for copies of decrees in Assistant's Court in the Rules for the Collection of Stamp Duties in the Cis and Trans Satlaj Provinces, contained in Government of India No. 1316, dated 15th June 1847.

NOTE.—In suits for Malgoozaree land (land paying revenue to Government,) the plaintiff shall engross his petition of plaint on stamped paper, the value of which shall be calculated at the amount of the annual jumma payable from the land to Government In suits for Lakhiraj land (land held exempt from the payment of revenue to Government,) the plaintiff shall engross his petition of plaint on stamped paper, the value of which shall be calculated at the amount of the annual nett produce of the land.

In suits for damages, compensation for injury, loss of caste, and the like, the amount shall be calculated at the rate assumed by the plaintiff.

In suits for houses, gardens, and other things of value, real or personal, not of the description before specified, as well as for any interest in malgoozaree land, not capable of valuation under the above rule, the amount shall be computed according to the estimated selling price; and every plaint shall specify the value of the thing claimed, and if the value thereof be understated in the proportion of 10 per cent, and the plaintiff have not before completion of the pleadings filed a second or duplicate plaint on stamped paper of such a value as may be sufficient to complete the full amount of the prescribed stamped duty, the defendant shall be entitled, on adducing proofs of the same, to obtain a non-suit, to which effect the Courts are hereby required to pass judgment in such cases.

Section VI.—Appeal— Petition of—in regular suits from decisions of Assistant or Deputy Commissioner in original suit.

Half the institution fee laid down in Section V.

NOTE —Provided that no petition of appeal shall be received upon Stamp paper of less value than Rs. 0 8 0

RULES.

Nothing herein contained shall be deemed or considered to alter or affect the Rules in force in regard to Paupers.

Copy of a letter No. 448, of 14th May 1850, from the Secretary to the Board of Administration, to the Secretary to the Government of India with the Governor General.

With reference to the annexed copy of a letter No. 59, dated the 29th ultimo, from the Officiating Commissioner and Superintendent of the Cis-Satlaj States, proposing that the provisions of clause 9, Section III, of the Rules for the Administration of Civil Justice in the Punjab, which require that security for costs shall be lodged with every petition of appeal, be modified, I am directed by the Board to state that they concur with the Commissioner in thinking it will be expedient to assimilate the clause in question to the rule prescribed by Act III of 1845, which leaves it discretionary with the Appellate Court to require or dispense with security for costs from the appellant.

The Board accordingly solicit the sanction of the Most Noble the Governor General to a modification of the clause to this extent.

Copy of a letter No. 311, of 25th May 1850, from the Secretary to the Government of India, with the Governor General, to the Board of Administration.

I have the honor to acknowledge the receipt of your Secretary's letter dated the 14th instant, No. 448, with its enclosures, proposing that the provisions of clause 9 of Section III of the Rules for Administration of Civil Justice in the Punjab be modified, in order to assimilate with the rule prescribed by Act III of 1845, and in reply am directed to convey to you the sanction of the Most Noble the Governor General to the modification proposed.

No. 1561, dated 20th May 1852, from Officiating Secretary to Government of India, to the Board of Administration for the affairs of the Punjab.

In reply to your Secretary's letter dated the 28th ultimo, No. 409, forwarding a copy of a Circular letter addressed to the Commissioners and Superintendents in the Punjab, proposing a modification in Clause 7 of Section I of the printed Rules for the Administration of Justice in the Punjab, I have the honor to inform you that the the Governor General in Council approves of the modification proposed.

The Circular referred to is No. 38, dated 28th April 1852, printed at page 246 of the Judicial Circulars of the Board of Administration. It is as follows :—

"A doubt having arisen as to the construction of clause 7, Section 1, of the printed Rules for the Administration of Justice in the Punjab, I am desired by the Board to inform you that they consider it was never intended by the above clause to prevent parties having the option to bring suits either in the Court of the District in which the defendant may reside, or in that where the cause of action arose. The Board are of opinion that the condition detailed in the second sentence of the above section is a mistake, and have applied to Government* for permission to modify it and assimilate it to the provisions of Section V, Regulation II of 1803. In the meanwhile they authorize the above modification being considered as the rule of practice pending the orders of Government."

III.—Abstract Principles of Law, commonly known as the Punjab Civil Code.

In 1853, the Judicial Commissioner for the Punjab prepared "a compendious Abstract of Principles in the various branches of Civil Law," with a proposed form of Procedure, for the guidance of the Courts, and, after consulting the most experienced officers subordinate to him, the heads of the mercantile community at Lahore and Amritsar, and other

* Sanctioned by Government in a letter, dated 20th May 1852, No. 1561, circulated by the Board in their Secretary's letter No. 50, dated 2nd June 1852.

Native gentlemen, re-wrote and submitted them to the Chief Commissioner. The Chief Commissioner laid them before the Governor General in Council for approval with his Secretary's No. 511, dated 25th July 1853, and in a subsequent letter, No. 39, dated 18th January 1854, recommended that the Procedure rules should be "formed into a legislative enactment, and published as the law of Civil Procedure for the Punjab," and requested authority "to publish, as a legal commentary, not of course having the force of law, but in the form of a manual . . . the rest of the work, which contains an epitome of the most important principles and rules of Civil Law, and refers the reader to the sources from whence more complete knowledge can be obtained." In reply, the following Resolution of the Governor General in Council, in the Home Department, was forwarded to the Chief Commissioner under cover of letter No. 1076, dated 17th March 1854, from the Secretary to the Government of India in the Foreign Department.

HOME DEPARTMENT.

The 3rd March 1854.

The Governor-General in Council is aware of the great anxiety which is felt by the Chief Commissioner and by the Judicial Commissioner to have the Code of Procedure for the Punjab passed into law without delay. It can, however, scarcely be anticipated that this Code can be enacted within a short period, as it will require careful consideration. Under these circumstances, the sections regarding procedure have been referred to the Commission now sitting for simplifying the Code of Procedure for India generally, as an aid to them in their present labors.

His Lordship in Council is further of opinion, that the Government would not be justified in enacting this Code until it shall be seen whether the Code for India, now under preparation by the Commission, will be applicable to the circumstances of the Punjab or not.

The rule of law for which the Chief Commissioner desires the formal sanction of the Government may, his Lordship in Council thinks, be given to the officers on his own authority, in the same mode as Circular Orders by the Sadr Dewaní Courts.

Rules of law ordered to be circulated for guidance.

The Chief Commissioner, accordingly, (in his Secretary's No. 177, dated 15th April 1854, to the Judicial Commissioner,) requested that the rules of law might be circulated as a manual for the information and guidance of officers, to have the same force as Circulars of the Sadr Court. Under this authority, the Judicial Commissioner *(with his Circular No.*

37 *of* 1854, *printed with the correspondence, pp.* 204 *to* 207 *of* 1*st volume of Judicial Commissioner's Circulars,*) circulated "for the information and guidance of all officers in the Judicial Department, the law sections with the comments thereon." At the same time, he took "the opportunity of circulating the rules of procedure, which," he observed, "in the absence of any sanctioned form," embodied "the system . . . . . approved by" him.*

The Procedure rules also circulated.

The work, thus circulated, though, as regards the Punjab, it never received any further express sanction than what has just been described, has ever since been regarded by the Courts as the Civil Code of the Punjab, and has been acted upon, except so far as it has been set aside by subsequent legislation.

Authority of the Code.

In 1867, in *re W. F. Bick, (Punjab Record for* 1867, *Civil Judgments, p.* 125*)* the question whether the Punjab Civil Code had acquired the force of law under Section 25 of the Indian Councils' Act, 24 and 25 Victoria, c. 67, came under the consideration of the Chief Court. The Court held that it was difficult to avoid the conclusion that although the Governor General of India, had made no order giving that work the force of law at the time when it was first circulated, he had still, in effect, by approving and recognizing it as a Code in all official dealings having reference to the law of the Punjab, afterwards made the rules contained in it. He had, moreover, in a letter dated 4th February 1856, addressed to the Chief Commissioner of Oudh, admitted that he had sanctioned its use in the Punjab. Though the question was not absolutely free from difficulty, the Court considered that the proceedings of Government from time to time with reference to the Code amounted to a making of the orders which established the rules embodied in the Code. "There can be no doubt," it observed, "of the intention of Government to regard the Code as law, latterly, if not in the first instance."

Decision of Chief Court in Bick's case.

The gist of this argument appears to consist in the intention of Government with reference to the Code, as manifested

* Abstract Principles of Law, circulated for the guidance of Officers employed in the Administration of Civil Justice in the Punjab, to which is appended a proposed form of Procedure :—Lahore, 1854.

by official acts, and the Oudh letter is referred to as an admission by Government that it had made the "Principles of Law" to be a Civil Code for the Punjab.

Force of the Code in Oudh. Privy Council decision.

The letter of 4th February 1856, to the Chief Commissioner of Oudh, is printed at p. 267 of Parliamentary Papers relating to Oudh, 1856, but I can only refer to the passages cited in 10 Moore's Indian Appeals, at pp. 272 to 275, in the judgment of the Judicial Committee of Her Majesty's Privy Council, in case of *Malkah Do Alum Nawab, Tajdar Bohoo* v. *Mirza Jahan Kudr.*

In para. 21 these words occur :—"It has been already intimated to you that the administration of Oudh is to be conducted as nearly as possible in conformity to the system which has been introduced into the Punjab."

The letter then explains "the advantages which had arisen in" the Punjab "from the introduction of the new Code," and after "observing that the kingdom of Oudh resembled very closely in its population, language, creeds, and customs, the North Western Provinces," it proceeds :—

"There is, therefore, every reason to believe, and none to doubt, that the system of administration, as modified for the Punjab, and divested of all those forms and technicalities which delay justice and are specially distasteful to a people unaccustomed to technical litigation, will be found acceptable to the people of Oudh, and more completely suited to the Province itself than it was to the Punjab, where, nevertheless, its success is undeniable."

In para. 43, it gives "instructions for the administration of Civil Justice," observing that with respect to these, "very material assistance is derived from the results of experience acquired in the Punjab."

In para. 44, it gives the history of the rules for Civil Judicature in the Punjab, which is thus abstracted in the Privy Council Judgment :—

"In the year 1847-48, a few rules for Civil Judicature were drawn out by the Indian Government for the guidance of the officers employed in the Cis and Trans-Satlaj States. Then these were, in 1849, extended to the Punjab, and it was left to the officers charged with the local administration, laying upon these the foundation of the judicial system, to improve, amend, and elaborate them, as practical experience might suggest.

"These rules, thus amended, were in 1854 reduced into a printed form, and circulated amongst the Judges of the Punjab.

They are entitled 'Abstract Principles of Law, circulated for the 'guidance of Officers employed in the Administration of Civil Justice 'in the Punjab; to which is appended a proposed Form of Proce-'dure.'

"This Code, as its title imports, contains a statement, first, of the principles of law to be adopted by the Judges; and second, of the rules of procedure to be followed. It lays down the ordinary rules of Mahomedan and Hindoo Law on the principal subjects which were likely to come before the Courts, and both in the rules of law and forms of procedure, introduces some alterations into the laws prevailing in the older Provinces.

"This Code, thus introduced into the Punjab, had, in the opinion of the Government, been found to work well."

Para. 44 then proceeds as follows :—

"These rules now, for the most part, guide the proceedings of the Judicial Courts in the Punjab, and they have been found so well fitted to the requirements of a new Province and a simple people, so easy in their application, so acceptable to the population, no less than to the officers themselves, and so beneficial in their results, that the Governor General in Council advises that they should be made the ground-work of the Civil Judicial system in Oudh."

Para. 45 runs as follows :—

"There appears to be no reason whatever for supposing that the rules of Procedure will not be as applicable to the Civil Courts in Oudh as to those in the Punjab, and there can be no objection to their immediate introduction. It is believed also the "Principles of Law" will be found sufficient, in the first instance, to guide the Judicial Officers in dealing with the various questions which will come before them in this branch of their duty. But it will not escape your observation that, in the preparation of the rules under notice, much attention has been given to the *lex loci*, and that, especially in matters relating to inheritance, marriage, divorce, and adultery, adoption, wills, legacies, and partition, as well as in all commercial transactions, a due regard to local usage has been enjoined. It cannot, of course, be supposed that the *lex loci*, or local custom, in provinces differing so widely as the Punjab and Oudh, is in all, or even in many respects, identical; and it follows that those provisions of the "rules" which rest on the *lex loci* in the Punjab, cannot, with any propriety or without risk of injurious failure, be extended to the Province of Oudh."

The Lords of the Judicial Committee of the Privy Council, after citing these passages, came to the conclusion "that the effect of these clauses is, that the principles of law, as well as the rules of procedure laid down in the Punjab Code, are to be adopted as the basis of the administration of justice in Oudh, and to be applied as far as they may appear to be not unsuited to the circumstances of the country; but that as far as they

are founded upon local customs, varying the general law, whether Hindu or Muhamadan, they are not to be applied to Oudh, where the local custom would probably differ from those of the Punjab."

And they held that the Rules of the Punjab Civil Code, Section VI, clauses 10 and 11, warranting a departure from the strict Muhamadan law, "if law it be, by which in all cases a sum fixed as dower is to be enforced as an absolute debt," had by these orders, "been extended to Oudh."

That the Judges of the Chief Court had this Privy Council case in their recollection in disposing of *Bick's case* is beyond a doubt, as they had cited it in a case of dower shortly before. The reason that they did not cite it in *Bick's case* evidently was that the question before them, the force of the Punjab Civil Code in this Province, was not quite the same as that decided by the Lords of the Privy Council.

Decision in the case of *Attar Kour* v. *Atma Singh.*

In a subsequent case, however, (*Massamat Attar Kaunwar* v. *Atma Singh and others, Punjab Record for* 1870, *Civil Judgments, page* 126) one of the Judges has held, differing from the ruling in *Bick's case,* that no admission could be implied from this order in regard to Oudh, that Government had "given an authoritative sanction to the use of the rules in the Punjab; nor could the continued use of this Code be held to imply that it obtained a Government sanction; and that, therefore, the Punjab Civil Code has not the force of law." It does not appear that in this case any instance of the recognition of the Principles of Law, as a Code for the Punjab, had been brought to the notice of the Court.

Points to be enquired into.

The decisions of the highest Civil Court in the Province as to the authority of the Code being thus conflicting, and the question having been acknowledged in *Bick's case* not to be free from difficulty, it appears necessary to consider whether any order, applicable directly to the Punjab, can be found, which confers upon it the force of law under Section 25 of the Indian Councils' Act, and in the absence of such order, or in case its sufficiency for the purpose appears open to question, to examine how far the Code is a correct statement of the law in force in the Province.

References to the Code as law by the Lieutenant Governor of the Punjab, &c.

In regard to the first point, I find that the Lieutenant Governor of the Punjab has more than once recognized particular portions of the Code as law, and that references to it as law by the Chief Commissioner of the Punjab have been passed without remark by the Governor General.* I have been able to discover but one instance, however, of an express reference to the whole as law in the Punjab. This instance occurs in para. 6 of the Lieutenant Governor's remarks upon the Civil Administration Report for 1858 (*No.* 367, *dated* 10*th May* 1859, *from Secretary to Lieutenant Governor to Judicial Commissioner, printed and circulated with Judicial Book Circular* 26 *of* 1859,) where it is stated that "His Honor's assent is fully given to your remarks concerning the necessity and importance of exacting a strict adherence to the letter and spirit of the Punjab Law and Procedure."†

The effect of this remark has never been considered by the Chief Court, and it is therefore uncertain whether it would be regarded as amounting to such a rule, law, or regulation, as is contemplated by Section 25 of the Indian Councils' Act. In regard to the second point, the sources from which the Principles of Law, published by the Judicial Commissioner, were derived, are indicated in the following extracts from the preface:—

"The Punjab presents a great diversity of tribes and races, and a corresponding diversity of laws and customs. By some classes the Hindu and Muhamadan Codes are acknowledged; but there is often a doubt to what portions of those Codes the observance extends, and with what degree of strictness it is carried into practice. There is still more room for reflection, as to how far these laws are affected by, or merged into, local custom, and in what places they altogether yield to that unwritten Code which is engraven in the minds of the people. Again, there is much variety of custom to be met with: the usage of trade, the practice of the land-holding community, the tenets of the Sikh sect, the manners of the hill and frontier tribes, all claim consideration. When these several races become the subjects of one great power, and when these systems, so diversified in there many phases, fall under the same administration, then those, who resort to our Courts may, naturally, feel some uncertainty as to what rule will be observed, what rights upheld, what laws introduced, under what conditions, and to what extent each law will be superseded by custom. On all these interesting questions, the Judicial Officer

* *Vide* especially the correspondence on the subject of the amendment of the Civil Law of the Punjab in 1858 and 1859.

† It is to be observed that the reference appears to be to para. 125 of the Civil Report, which relates to Procedure only, but refers to a Circular No. 72 of 1858, in which strict adherence to the rules laid down in the Punjab Civil Code, as regard both law and procedure, was inculcated.

may be no better informed than the public themselves; and even if he were assured on what points the Hindu and Muhamadan Law should be followed, there would still be some difficulty in ascertaining the minute provisions of those laws. For learning does not yet flourish among the inhabitants of the Punjab; and although Ranjít Sing did, occasionally, support Hindu and Muhamadan lawyers and doctors by public grants, still, in many localities, there does not exist any class of pandits, and muftís, whom our Judicial Officers might conveniently consult; and it will be explained, subsequently, that there are no materials from which an intelligent and trustworthy native bar might be constituted. Nor could aid, in this respect, be derived from the Regulations, inasmuch, as they, for the most part, refer to the Hindu and Muhamadan Codes. Under these circumstances it appeared to the Judicial Commissioner that a compendious abstract of principles, in the various branches of Civil Law, taken partly from the Regulations, and partly from European jurisprudence, and the whole framed with a regard to the known peculiarities of the country, might not be without use to those who preside in the Courts, and to those whose rights and interests may become the objects of litigation. * * * * * * * * *

Each part has been divided into sections, and each section into clauses. For each section there has been appended a comment, stating briefly the reasons of the rules proposed, and then differences, if any, between them and other systems. The various authorities from which the doctrines of native law have been collected are also given. It will be sufficient here to state that the works chiefly relied on, are those of Sir W. Jones, Sir T. A. Strange (of Madras,) Sir W. Macnaghten and Mr. H. T. Colebrooke. The procedure is partly founded on the Punjab rules promulgated shortly after annexation. * * * * * * * * *

It is not indeed hoped that the first part contains anything approaching to a digest of law or of rights. Omissions and imperfections may, doubtless, be discovered in every Section Still the principles are believed to be correct, as far as they extend, and to merit the attention of Judicial Officers in the Punjab, in the absence of any other and better treatise. They will at least awaken and direct reflection; and as they are tried by the test of practical experience, and brought into closer contact with local custom, the numerous suggestions which may be expected from the many able officers stationed in various parts of the Province may furnish matter for amended versions and new editions hereafter; and perhaps, also, for a complete analysis and epitome of the *lex loci* throughout the Punjab.

The Code considered in detail.

The Principles of Law which form the first part of the Code, will now be considered Section by Section. It appears unnecessary to reprint it, as it is of considerable length. The original edition can easily be referred to.

Section I.—Powers and Competency of the Civil Courts.—The Commentary upon this Section states how far it is founded upon the Regulations, and explains the particulars in which they have been departed from. The changes are not of the

nature of instructions issued by a Sadr Court for the guidance of the Courts subordinate to it, but are rather of a legislative character. They have since, by the introduction of the Code of Civil Procedure in 1865, and by the Punjab Courts' Act, (*No. XIX of* 1865,) been deprived of any force which they ever possessed.

Section II.—Evidence.—The provisions of clauses 1 to 4 are superseded by Act II of 1855, and by the introduction of the Civil Procedure Code. Clause 6 was superseded by the procedure prescribed by Financial Commissioner's Book Circular XXXIII of 1860, (repealed by Act XXVIII of 1868, *the Punjab Tenancy Act,*) and afterwards by the Civil Procedure Code.

Clause 5 makes the Settlement administration paper *primâ facie* evidence, and requires Courts to refer to the Settlement records in all suits regarding right to or interest in land.

This clause, so far as it lays down a rule of evidence, bears the character of a statement of the law. It is in part supported by the 1st clause of Section 9 of Regulation VII of 1822, which, after stating what the Settlement Record is to embrace, goes on to direct that " the information collected on the above points shall be so arranged and recorded as to admit of an immediate reference hereafter by the Courts of Judicature, it being understood and declared that all decisions on the demands of the zamindars shall hereafter be regulated by the rates of rent and modes of payment avowed and ascertained at the settlement, and recorded in the Collector's proceedings, until distinctly altered by mutual agreement, or after full investigation in a regular suit." This provision, however, while it enables the Court to refer to the Settlement Record for information on the matters which it was required to embrace, is not as explicit as the Punjab Civil Code in regard to its admissibility in evidence. It may be inferred that it would be admissible at least as corroborative evidence of the facts recorded, but whether it could be received as independent evidence is less clear.

Section III.—Hindu and Muhamadan Law, and Lex Loci.—The 1st and 3rd Clauses follow " the spirit of the fundamental Civil Regulations ;"—*vide* Regulation III, 1803, Section 16, Clause 1 ; Regulation VIII, 1795, Section 3 ; and Regulation VII, 1832, Sections 8 and 9. The second is a statement of the well known fact that the Sikhs are generally bound by the Hindu law in regard to civil affairs. The fourth relates to procedure.

The distinct recognition of local custom, where opposed to the law which would otherwise be applicable, in Clauses 5 and 6, deserves to be remarked. This may probably be supported by para. 6 of the Government letter No. 418, dated 31st March 1849. *(ante, p. 15.)*

Clause 7 distinguishes the subjects upon which law and custom should be followed, and those upon which they should be disregarded. As respects the disregard of civil disabilities, it goes beyond the Regulations, but is in part supported by Act XXI of 1850.

Clause 8 prescribes that in all commercial transactions, not expressly provided for, the usage of trade shall be followed. This seems to be a corollary from the rule of "justice, equity and good conscience" laid down in Regulation III, 1793, Section 21, (which was extended to Benares by Regulation VII, 1795, Section 11,) and in Regulation II, 1803, Section 17.

In the Commentary on this Section it is stated that in the Code "an explanation of the leading principles of Hindu and Muhamadan Jurisprudence has been attempted," but that this "pretends to nothing more than the character of an epitome or an abstract." This explanation is to be found in the following Sections—IV to XI inclusive.

Section IV.—Inheritance.—The authorities from which the principles contained in this section are drawn, are stated in the Commentary, and, for details which are not given in full, a reference to them is suggested. It will be sufficient to refer to the points where the rules of Hindu or Muhamadan law are departed from. "The only deviations," it is stated in the Commentary, "are in those cases where acknowledged custom may have superseded the law. Several instances of such collision have been noted, namely, the exclusion of daughters and their descendants from inheritance, specially in landed estates; the equal partition between the issue of each wife of the deceased; and the partial assimilation of Hindu to Muhamadan custom."

Clause 4, in preferring sisters to collateral male relatives in the succession to Hindus, departs from the law of the Mitakshara school, but there is nothing to show that the departure was intentional.

Clauses 6 and 7 relate to the exclusion of daughters from inheritance; Clause 13 directs that where usage among Muhama-

dans, superseding their law of inheritance, is defined and certain, it should be followed in preference to the law; and Clause 18 relates to the Patnibhága or Chundavand custom. These provisions may perhaps, as already remarked, be considered as borne out by para. 6 of the letter from Government constituting the Punjab Administration.

Clause 19 directs that the disqualifications and disabilities declared in the Hindu or Muhamadan law shall not operate as grounds for exclusion from inheritance. This subject has been noticed under the last section.

Clause 21 relates to the disposal of property for which claimants do not immediately appear, and appears to be in accordance with Section 7 of Regulation V of 1799, and Section 16, clause 7, of Regulation III of 1803.

Clause 22 excepts from the provisions of this section, families in which the order of succession may have been fixed by Government. In these cases the order so fixed would probably have the force of law under the Indian Councils' Act.

In the case of *Massamat Hafizan* v. *Massamat Mendhu*, (*Punjab Record for* 1869, *Civil Judgments*, *p.* 22,) a question was raised as to the interpretation of Clause 9 of this Section. It was held that the word 'children' in this clause refers only to male children, this sense being required to make the rule laid down agree with that of the Muhamadan law, and no intention to depart from that law being manifested. The same principle would of course be applied in other cases of doubt as to the precise import of the rules laid down in this section.

Section V.—Special property of females.—Clauses 6 and 7 provide for cases of collision between the law and the custom.

The rule in Clause 8, making women liable to deprivation of their special property for adultery, does not, so far as I can discover, rest upon any distinct authority, though the Vyavahara Mayukha and Vivada Chintamani, authorities of the Bombay and Mithila schools of Hindu law, cite a passage from Katyayana to the effect that an unchaste wife is unworthy of stridhana.

In other respects this section follows the Hindu and Muhamadan laws.

Section VI.—Marriage, Divorce, Adultery, and Seduction.—The deviations from Hindu and Muhamadan law are stated in

para. 5 of the Commentary, and occur in clauses 3, 7, 9, 10, and 12 to 17 of the text. That in clause 3, as to the re-marriage of Hindu widows, is provided for by the subsequent Act, XV of 1856. Clause 7 recognizing *Chadar dalna* marriages among Sikhs, is based upon local custom. Clause 10 modifies the Muhamadan law as to dower.* Clauses 9, and 12 to 17, containing rules regarding non-performance of betrothal agreements, and the breach of marriage contracts not accompanied by cohabitation, are discussed in paras. 6 to 8 of the Commentary upon this Section. Additional rules on the same subject were issued by the Judicial Commissioner in his Circular No. 102 of 1858, and received the sanction of the Governor General in letter No. 585, dated 20th January 1859, to the Secretary to the Lieutenant Governor.

Section VII.—Adoption.—In this Section, it is stated in the Commentary, no deviation from the Hindu law is proposed. Clause 4 provides that adoptions contracted *bonâ fide* shall not be vitiated by informalities in the observance of the strict rules of the Hindu law on the subject. This seems to be the law, where the adoption is one which would be valid if the prescribed formalities had been complied with.

Section VIII.—Minority, Parental authority, and Bastardy.—Clause 1 fixes the term of legal minority at 18 years. This is a departure from Hindu and Muhamadan law, but appears to be warranted by Regulation LII of 1803, Section 32, and by the subsequent Act, XL of 1858, Section 26. Compare Judgment of High Court of Calcutta in the case of *Madhusudan Manji* v. *Debi Gobinda Newgi*, 1 Bengal Law Reports, F. B., p. 49. Also see *Lakhi Kant Dutt* v. *Jagabandhu Chakravarti*, 3 Bengal Law Reports, Appendix 79, and *In the goods of Gangaprasad Gosayan*, 4 Bengal Law Reports, Appendix 43.

Clause 13, providing that parental authority over the person or property of the child shall cease after the term of legal minority, is in accordance with the law administered in the Courts of the Regulation Provinces. The rules as to guardianship are founded upon the Regulations, and those as to maintenance and illegitimacy upon Hindu and Muhamadan law. Clauses 10 and 11, relating to parental authority and the

* With reference to this modification, which was suggested as a desirable amendment of the Muhamadan law in Harington's Analysis, more than 60 years ago, *vide* the Privy Council Judgment already referred to—10 Moore's Indian Appeals, pp. 252 to 278.

custody of minors, contain provisions which are founded to a considerable extent upon English law, and these, along with the provision in Clause 19, enabling the father to claim the guardianship of illegitimate children, can only be supported by the rule of "justice, equity, and good conscience" where Hindu or Muhamadan law is silent.

Section IX.—Partitions and disposition of property.—In this Section also, Hindu and Muhamadan law is followed, with the exceptions that clauses 2 and 6 allow disposition by Muhamadans to be restricted by custom,—that clause 4 allows the alienation of ancestral property for really cogent reasons,—and that as regards the partition of land, effected by the Revenue authorities, "the spirit of the Regulations" has been taken as the guide. For clause 4 alone does any further authority seem necessary.

Section X.—Gifts.—The Muhamadan and Hindu laws are followed, with the proviso that Muhamadans may be restricted by custom in the disposal of property by gift.

Section XI.—Wills and Legacies.—Here the Muhamadan law is followed. The will of a Hindu is allowed "to take effect, provided that it does not militate against the rules of inheritance, and does not transgress the general limits imposed on the disposition of property." The Civil Courts of other parts of India, and the Judicial Committee of the Privy Council, have allowed the same power, if they have not gone farther.

Section XII.—Contracts.—The principles contained in this section are borrowed from European law, with modifications to adapt them to Indian society. The books from which they are taken are noted in the Commentary. Any force they may have in the Punjab must be derived either from local custom, or from the rule of "justice, equity and good conscience," if the Punjab Civil Code has never acquired the force of law.

Section XIII.—Sales.—The custom of the province is the source from which the provisions of this section are derived. Among the points provided for, are the seller's lien for the price upon the goods sold, stoppage in transit, and the law of market overt. The operation of the maxim of *caveat emptor* is excluded. Clause 9 provides for the case of what are known as *Ism farzi* transactions. Clauses 11 and 12 deal with the right of pre-emption. This rests in part upon Muhamadan law, in part upon custom, but a new provision is made for ascertaining

the fair price where that specified in the deed is merely a nominal valuation. Temporary transfers are declared not to be subject to the pre-emption rules. This seems in accordance both with Muhamadan law and with custom.

Section XIV.—Mortgages.—"There is nothing," says the Commentary, "in the section on mortgages which demands special notice, except the full scope which has been given to the operation of the *lex loci*, and of agreements made between the parties." Clause 3 and Clauses 6 and 7 of Section VI on the subject of procedure provide for foreclosure, where the mortgage is of the nature of a conditional sale. These rules are derived from Clauses 5 to 8 of Section VIII of the "Rules for the Administration of Civil Justice" and from Regulations I of 1798, XXXIV of 1803, Sections 12 to 15, and XVII of 1806, Sections 2, 7 and 8. Additional provisions on this subject are to be found in the later Act XXVIII of 1855, Sections 5 and 6.

Clause 4, which excludes the application of the Statute of Limitation, has no longer any effect since the introduction of Act XIV of 1859.

Section XV.—Agency, and Section XVI.—Bailment.—The remarks already made with reference to Section XII are equally applicable to these sections.

Section XVII.—Partnership.—The rules contained in this section are founded on the mercantile usage of the province, supplemented by some principles derived from English and French law, and are stated to be "conformable to the general tenor of the Hindu and Muhamadan laws."

Section XVIII.—Bills of Exchange.—This section is based upon English law, modified in accordance with the mercantile usage of the province. The subject is one in regard to which mercantile usage would always prevail, where not restrained by any express enactment.

Section XIX.—Debt, Interest, and Mesne Profits.—The provision that the Courts shall not be bound by any restrictions with regard to usury, is an anticipation of Act XXVIII of 1855—*vide* Sections 4 to 6 of that Act. Clauses 5 and 6 contain provisions as to usurious or exorbitant interest, which, in the absence of fraud on the part of the creditor, would necessarily be over-ruled by that Act. Clauses 7 and 8 as to Mesne Profits (*Wasilat*) are superseded by the Code of Civil Proce-

dure. Clauses 9 to 15 lay down rules for the disposal of insolvency cases, founded on English law. The jurisdiction conferred by them rests upon the authority of the Punjab Civil Code alone, and must stand or fall with it.

Section XX.—*Libel.*—This Section is founded upon recent English legislation on the same subject. Though the word 'false' is introduced into the definition of libel in Clause 1, yet from the 2nd Clause it appears that the plea of the truth of the statement is not a sufficient defence, unless its publication appear to be for the benefit of the community. In this respect, therefore, as in drawing no distinction between libel and slander, the law laid down in this Section agrees with that of defamation, as stated in the Indian Penal Code; and as there is nothing to show that any distinction between the elements which enter into libel and slander on the Criminal and on the Civil side of the Courts of the Province has ever been contemplated, either by the legislature or by Government acting in a legislative capacity, and as no such distinction was known in the administration of justice in the Punjab, before it was brought under British rule, the Indian Penal Code may safely be referred to in support of the law here laid down.

Section XXI.—Canons regarding landed property.—It is unnecessary to say more of this Section than that it is founded upon the Revenue Law as administered in the Punjab. Clause 24, as to the law of Alluvion, follows Regulation XI of 1825, Clause 13 is treated as law in Secretary to Punjab Government's No. 927, dated 15th August 1859, to Financial Commissioner. The subjects treated of in Clauses 13 to 15, and 17, are now provided for by the Punjab Tenancy Act, XXVIII of 1868.

Section XXII.—Miscellaneous.—Clause 1 provides that no action shall lie for exclusion from *caste,* unless in consequence of the malicious act or of the gross negligence of any individual, and that awards declaring persons degraded from caste shall not be the subject of enquiry in the Courts: provided that no illegal consequences are involved. This seems a correct statement of the rule which, in the absence of express legislation, our Courts would follow.

Clause 2, as to *lien,* is founded upon mercantile usage, which must govern the decision of questions of this nature.

Clause 3, as to *Guaranty*, contains provisions of a legislative character. The Hindu and Muhamadan laws have not been followed.

Clause 4, on the subject of *Insurance*, is founded upon mercantile usage.

Clause 5, as to *Copy-right*, "is taken from Act XX of 1847."

Clause 6, as to *Religious Endowments*, is founded on Hindu and Muhamadan law, and on custom. The jurisdiction of the Civil Courts in regard to such endowments is now provided for by Section 2 and Sections 14 to 20 of Act XX of 1863.

Clause 7 recognizes no cause of action as to the employment of priests and the payment of religious fees, unless where service has been actually rendered. This is an obvious corollary from the principle that Civil Courts do not undertake to enforce religious duties.

Clause 8, as to marriage presents among Hindus, is founded upon custom. It seems to give the Court a discretion not to enforce the demand, though equitable and warranted by custom. This of course could not be supported, *vide* Section 2 of the Civil Procedure Code.

Part II of the Code, —Procedure,—almost entirely superseded.

The greater part of the rules of Procedure appended to the Code is superseded by the introduction of the Code of Civil Procedure in 1866, but a few subjects are included to which that Code does not refer. These are Limitation (Section I, paras 6 to 9); Stamps (Section I, Clause 5, Section VI, Clause 9, and Section VII); Vakils (Section IV); and Mortgages, (Section VI). The rules as to Limitation are taken mainly from the Regulations (*vide* also Rules for Administration of Civil Justice, Section I, Clause 6), but the terms of limitation were greatly changed by subsequent orders issued under the authority of the Governor General, and the rules on this subject have now been entirely superseded by the introduction of Act XIV of 1859. The rules as to Stamps were based upon those appended to the Rules for the Administration of Civil Justice, but ceased to be in force from the date of the introduction of Act XXXVI of 1860.

Those on the subject of Vakils differ from the Rules for the Administration of Civil Justice in not recognizing licensed Vakils, and in regard to the amount awardable as costs between

party and party on account of Vakils' fees. These rules, however, have also been superseded by the introduction in 1866 of "the Pleaders', Mukhtars' and Revenue Agents' Act,"—(*XX of* 1865.) The rules as to Mortgages are based upon Section VIII of the Rules for the Administration of Civil Justice and upon the Regulations relating to foreclosure, and, so far as supported by those authorities, are still in force.

Order of President in Council in 1859.

It might possibly be maintained that the whole of these rules of procedure acquired the force of law under the order of the President in Council dated 4th November 1859, directing the introduction of the Code of Civil Procedure into Non-Regulation Provinces, as supplementary to existing rules, and subordinate to them in authority. But as the Government of India had distinctly withheld its sanction from the procedure rules, when asked for it in 1854, and as in this order the question what the existing rules were was not considered, it is hardly possible to derive any satisfactory argument in support of the procedure rules from it. The question whether they had the force of law is now, however, of no importance, as will be seen from the observations already made as to the effect of the introduction of the Code of Civil Procedure, the Stamp Act, the Limitation Act, and the Pleaders' Act.

Importance of the question as to the force of Part I of the Code.

The question which has been raised as to the force of the Principles of Law, after the lapse of sixteen years, during which they have been acted upon by all the Courts in the Province, from the lowest to the highest, is on the other hand one that urgently presses for solution, and probably the only satisfactory solution will be the interposition of the legislature to remove the doubt. So far as it professes to be founded upon the authority of Hindu or Muhamadan law, or of any enactments in force, the supporters of its authority of course regard it, not as itself law, but merely as an exposition of the law; (*vide* judgment of Chief Court in *Massamat Hafizan* v. *Massamat Mendhu, Punjab Record for* 1869, *Civil Judgments, p.* 22); and so far as its provisions are drawn from custom or from mercantile usage, the question for the Courts would be whether the case under consideration was actually governed by such custom or usage, and evidence would be admissible to show that it did not apply. But from the examination of the Principles which has preceded, it will be seen that on several subjects

provisions are intentionally made which are not in accordance with Hindu or Muhamadan law, and are not supported by any general custom or usage prevailing in the Province, and that a bankruptcy jurisdiction is conferred upon the Courts which does not exist elsewhere in India out of the Presidency towns. In some respects also the Regulations have been departed from, though in regard to most of these the Regulations have since been repealed by subsequent laws applicable to the Punjab. In other cases rules are borrowed from foreign laws on the ground of their supposed adaptation to the wants of the Province. In regard to all these matters, the authors of the Code were really assuming the power of making law, whether they were conscious of it or not, and the law so made has been administered by the Courts without question for a period of sixteen years, so that the people have become accustomed to regard the Code as the Civil law of the Punjab, and to refer to it as the authority in accordance with which their cases are to be decided. It has also had the advantage of giving the Courts a rule to guide them in many points, where they would otherwise have had to fall back upon "the principles of justice, equity, and good conscience," running considerable risk of arriving at conflicting conclusions as to what those principles were. To sweep it away now would be an unmixed evil, unless something better is at once substituted in its room.

IV.—CHANGES IN THE LAW OF LIMITATION IN 1856-57.

No. 689, dated 20th September 1856, from Secretary to Chief Commissioner, Punjab, to Secretary to Government of India, Foreign Department.

I am directed to forward to you, with the Chief Commissioner's recommendation, the accompanying copy of a letter No. 255, dated 13th instant, with its enclosure from the Judicial Commissioner, proposing an alteration in the period within which actions for debts and contracts should be brought in the Punjab Courts.

2nd.—At present, under Clause 6, Section I, Part II of the Punjab Code, all suits can be heard when the cause of action does not exceed 12 years, and it is proposed to limit the period in actions for debt on bond, or accounts not being partnership accounts, to 6 years, as is the case in the Saugor territory, under the rules recently published by His Honor the Lieutenant Governor.

No. 5239 A, dated 17th October 1856, from Officiating Under Secretary to the Government of India, to Chief Commissioner of the Punjab.

In reply to your Officiating Secretary's letter of 20th ultimo, Nos. 689-503, I am directed to acquaint you that the Governor Gene-

ral in Council sanctions the alteration proposed by the Judicial Commissioner in the period within which actions for debts and contracts may be brought in the Punjab Courts, *viz*, reducing the 12 years' limitation for the institution of suits, the practice now obtaining, to 6 years, as is the case in the Saugor territories.

No 469 dated 30th January 1857, from Secretary to Government of India, to Chief Commissioner of the Punjab,

With reference to my letter No 5239 A, of the 17th October last, authorizing the introduction in the Punjab of the rule obtaining in the Saugor Division, by which no suit for debts and contracts can be instituted, when the cause of action exceeds six years, I am directed to state that the Governor-General in Council, being apprehensive that the sudden adoption of this rule without any warning may be productive of inconvenience, and may operate harshly in some cases, is of opinion that a limited period should be fixed within which suitors may be permitted to prefer their claims under the former limitation rules

2nd—His Lordship in Council is therefore pleased to direct that proclamations be issued generally throughout the province, declaring that the operation of the 6 years' limitation rule is suspended until the 1st November 1857, after which date its provisions must be strictly adhered to

No 954 dated 27th February 1857 from Secretary to the Government of India, to Chief Commissioner of the Punjab

It is supposed that in my letter dated 30th ultimo, No 469, the date from which the suspension of the operation of the 6 years' limitation rule in regard to suits for debts is stated to be the 1st November 1857, whereas it should be the 1st May 1857 I have the honor to request that the error may be rectified accordingly

V—CHANGES IN CIVIL LAW AND PROCEDURE IN 1859

[Extract part of paras 3 to 6 paras 7 and 8, part of paras 9 and 10 and paras 11 to 14, of letter from the Secretary to the Chief Commissioner Punjab, to the Secretary to the Government of India, No 335—787, dated 22nd October 1858]

3 Under the head of Civil Law, the first change is that in the Statute of Limitation

The change sanctioned by Government No. 5239, dated 17th October 1856, is then referred to, after which this para. proceeds as follows :—

This change having been found to work most beneficially, further reductions are proposed as follows —

I—That 12 years be the limit beyond which suits cannot be heard in claims to real property and in mortgages, when the property has not been delivered to or placed in possession of the mortgagee, but merely hypothecated as collateral security for the debt

II.—That 6 years be the limit of suits founded on registered bonds, on bills of exchange, and partnership accounts, suits for enforcement of existing decrees, and any other class of case not otherwise specially provided for.

III.—That 3 years be the limit in all cases relating to debt and accounts, excepting those arising out of bond or partnership, to disputes between master and servant, employer and agent, and to cases connected with marriage, betrothal, and maintenance, and all actions on simple contract not otherwise provided for, and all claims to hereditary and customary fees and to the management of religious institutions.

IV.—That 3 months be the limit in all cases relating to trespass, nuisance, personal grievance, pre-emption, and caste . . .

[Then follow remarks in support of the proposed changes.]

4. The next point is the compulsory registration of all bonds for Rs. 50 and upwards, a bond being defined to be an acknowledgment signed, marked, or sealed by the obligor in the presence of two witnesses . . . . . .

5. The third point is that no account books be accepted as evidence which do not comprise a day book as well as a ledger, and that a model for such books be circulated. This appears to be an excellent measure and easy of execution . . . . . .

6. The fourth point relates to the further restriction of the sale of land in satisfaction of decree. After recent experience in Hindustan, it is superfluous to explain how the sale of land for the above purpose is unpopular with our native subjects—exactly the same sentiment prevails in the Punjab. Fortunately such sales have been comparatively rare in the Punjab, but still they do occur, and it is therefore proposed to render them even more difficult of execution than they are now. At present such sale can be sanctioned by the Commissioners, but it is now proposed that if the sale relate to ancestral property, it must have Judicial Commissioner's sanction; if to acquired property, then the sanction of Commissioner . . . . . .

7. The fifth, sixth, seventh and eighth points relate to details in the law relating to marriage and betrothal, which would almost follow as corollaries to the existing rules. The Chief Commissioner has therefore authorized their adoption. They are as follows:—*That* a man who had paid a *valuable* price for a bride cannot, in the event of his not receiving the bride, recover the price by action; that contracts of betrothal are personal, and voided by the death of either party; that if a man, having made a contract of marriage, shall enter into a second marriage before completing the first, the contract for the said first marriage will be voided; that certain detailed rules regarding betrothal, agreed to by the people of Kangra, be inserted in the Punjab Code as applicable to the Kangra District.

8. The ninth point is to the effect that a clause be inserted in the Punjab Code, prescribing that, in banking transactions between European British subjects, the spirit of the English Law be followed. The Chief Commissioner has authorized this being done. The

provisions of the Code which relate to banking are founded upon native custom, which might not always be applicable to Europeans.

9. The tenth and eleventh points relate to the better distribution of costs, a matter of considerable importance. The Supreme Government are aware that the Punjab Administration has unceasingly endeavoured to render justice *cheap*. First, the stamps were were fixed at rates fifty per cent. lower than those of the older Provinces. Then, because the process fees, when calculated according to distances, pressed heavily on some suitors, they were fixed at an uniform rate for all distances alike. But although costs are comparatively low in all cases, and are absolutely so, when calculated at a per-centage on the aggregate of litigation, they are yet found to bear *unequally*. They are almost nominal on large suits, while they fall much more heavily on small ones. It was Mr. Roberts who first drew attention to the disparity, and has now prepared a revised scale, which the Judicial Commissioner has tested and examined. The new scale is given below for facility of reference, and the Chief Commissioner strongly recommends that it be tried* . . . . . .

10. The twelfth point relates to the substitution of English for vernacular records in certain cases . . . . . The Chief Commissioner at all events is convinced that it ought to be tried, and he has accordingly authorized the Judicial Commissioner to have it tried in cases under Rs. 100 and above Rs, 1,000, so that its operation in both great and small cases may be seen. If it succeeds, it can hereafter be extended to other cases.

11. The thirteenth point relates to a certain limitation of appeal. Mr. Thornton proposes that when a decree of a Deputy Commissioner or Assistant with full powers has been affirmed on appeal by the Commissioner, there shall be no further appeal to the Judicial Commissioner, provided that the Judicial Commissioner shall have the power of calling for any such case wherein he may see reason for so doing. As the Supreme Government are aware, the Chief Commissioner believes the right of appeal to be useful and valued by the people, but he thinks that the above limitation may be safely introduced. It will doubtless prove a relief to the Judicial Commissioner, whose time is heavily taxed with a multitude of appeals on the one hand, and a variety of administrative matters on the other.

12. The fourteenth point is to the effect that, when property of a debtor has been sold at instance of a decree-holder, before execution of another outstanding decree has been applied for, the proceeds shall be held exclusively for the benefit of the first decree-holder, but that, when two or more decrees are in course of execution, the sale proceeds shall be divided rateably among the decree-holders. This seems a reasonable corollary to the existing rules, and the Chief Commissioner has authorized the Judicial Commissioner to act upon it.

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* The adoption of this scale introduced the levy of a fixed amount in each suit for service of process, calculated not by the number of processes to be served, but by the value of the suit. The new talabana system, thus established, was continued from year to year under the authority of Government of India No. 2115, dated 20th June 1860, and No. 3954, dated 18th July 1861. The latter authorized the credit of the surplus proceeds to the Punjab Judicial Department, pending the sanction of the Secretary of State. The system has been superseded by the extension to the Punjab of Act XI of 1863 from 1st November 1867.

13. The several points have now been touched on. Where the proposed improvements were of an executive character the Chief Commissioner has ordered them to be carried out, and he trusts that his proceedings may meet with the approval of the Supreme Government. But certain points are of importance, and the Chief Commissioner is not able to act on them without the sanction of Supreme Government, which I am specially to solicit as follows.

14. The Chief Commissioner then particularly recommends—

Firstly.—That the Statute of Limitation be fixed at twelve, six, three years, and three months, respectively, in the cases described in the 3rd paragraph of this letter.

2ndly.—That bonds for 50 rupees and upwards be not admitted in Court unless registered, except in special cases at discretion of Judge.

3rdly—That institution stamps and process fees (talabana) be fixed at the rates described in paragraph 9 of this letter.

4thly.—That in cases where the decree of a Deputy Commissioner, or Assistant with full powers has been affirmed by the Commissioner, there shall ordinarily be no appeal to the Judicial Commissioner.

NOTE—With reference to the last clause of para. 7, para. 21 of Judicial Commissioner's Minute is here appended.

Extract paragraph 21, from a Minute by the Judicial Commissioner of the Punjab, submitted under cover of his letter No. 461 - 3930, dated 28th September 1858, to the Secretary to Chief Commissioner, Punjab.

21. The Chief Commissioner will be aware that some years ago a special set of rules was drawn up for the regulation of marriages and betrothals in the Kangra district, with the consent and by the co-operation of the people. These rules received temporary sanction, and are said to be most satisfactory in their operation. I think it would be advisable if allusion were made to these rules in the Civil Code, and the rules were separately printed and circulated for the future guidance of the officers of that district.

Copy of a letter No. 585, dated 20th January 1859, from the Under Secretary to Government of India, to the Secretary to the Government of the Punjab and its dependencies.

I am directed to acknowledge the receipt of your letter dated 22nd October last, No. 335, together with its enclosures, proposing certain changes in the Local Law and Procedure of the Punjab Civil Courts, and in reply to convey the Governor-General's orders on the several measures of reform which are recommended for adoption.

I. That the Statute of Limitation be fixed at 12, 6, 3 years, and 3 months, respectively, in the cases described.

2nd. His Excellency concurs with the late Chief Commissioner in thinking that the further reductions proposed cannot be otherwise than beneficial, and he is therefore pleased to accord his sanction thereto.

II. That there shall be compulsory

3rd. The exception which His Lordship is disposed to take to this proposal is that, in a country were money transactions for very small amounts predomi-

registration of all bonds for Rupees 50 and upwards.

nate, the registration should be compulsory in respect of *all* bonds, for there is little doubt that registration will add to the trustworthiness of bonds, and operate as a check on fraud and forgery: as however it is stated in your letter that the agency necessary for this is not at present available, the Governor General sanctions the proposal as it stands.

III. That no account books be admitted in evidence which do not comprise a day book as well as a ledger.

4th. His Excellency authorizes the adoption of this rule, which he has no doubt will be attended with great benefit to the agricultural classes.

IV. That no ancestral property in land shall be sold in satisfaction of a decree without the sanction of the Judicial Commissioner and that before acquired property in land shall be so sold, the permission of the Divisional Commissioner shall be obtained.

5th. It is said that the object of this rule is to restrict the practice of selling land in satisfaction of a decree, though it is not thought advisable to abolish it altogether, because "the knowledge that as a last "resort it may be put in force, will render land-"holders careful in the management of their "affairs." His Excellency is afraid that this is not a very logical reason. If, while the restrictions proposed did not exist in the Punjab, and also in the North Western Provinces, where land is habitually sold in execution of a decree, landholders have been proverbially reckless in money matters, His Excellency does not see why it should be expected that when the process is hedged about by many precautions, and the sale of land in execution of a decree will be a rare occurrence, the landholders should become more careful, or be even less careless than they may have been formerly, still it appears to the Governor General that the move is in the right direction, and he is therefore pleased to give his sanction to it. But I am desired to suggest that possibly in cases where a decree cannot be executed by other means, and sale of land be proposed, it may be sometimes advisable to lease the land of the judgment-debtor on favourable terms, and appropriate the proceeds realized over and above the Government revenue to the gradual liquidation of the debt.

V, VI, VII and VIII relate to details in the Local Law, concerning marriage and betrothal.

6th. The rules proposed by the Judicial Commissioner, and the late Chief Commissioner, for the regulation of marriages and betrothals, appear to be essentially just, and are therefore entirely approved by the Governor General.

IX that the spirit of English law be followed in dealing with Banking transactions between European British subjects.

7th. This rule is obviously right, and has His Excellency's sanction.

X and XI relate to costs of suit.

8th. The Governor General is pleased to sanction the changes advocated under this head. At present the inequality of the costs is great, but His Excellency hopes that this evil will now be remedied by the adoption of the graduated scale which has been prepared by Mr.

Roberts, and strongly recommended by the Judicial Commissioner and the late Chief Commissioner.

XII relates to the substitution of English for vernacular record, in cases below 100 in value and in cases above 1,000.

9th. It is certain that this measure, which is strongly advocated by most of the officers who have given their attention to the improvement of Civil Justice in the Punjab, has all the advantages which are claimed for it. But it is equally certain, whatever may be said to the contrary, that the Judicial officers will find it a great impediment to the progress of business. His Excellency therefore sanctions its introduction experimentally, being doubtful whether it will work in the Punjab, especially as suits below Rs. 100 must constitute about 50 per cent of the whole Civil business.

XIII relates to limitation of appeal.

10th. The Governor General is pleased to sanction this limitation, which has been already introduced in Oudh and in the Haidarabad and Assigned Districts. His Excellency also sanctions the introduction of the same rule in the Department of Revenue and of Criminal Justice, as proposed in your separate letter dated the 22nd October last, No. 336.

XIV regulates the disposal of property sequestered in execution of a decree, when there may be two or more applications for execution against the same debtor at the same time before the Court.

11th. This is an equitable rule, and has His Excellency's approval and sanction.

NOTE.—Under the authority conveyed in this letter, Judicial Commissioner issued his Circular No. XI—29, dated 14th March 1859, carrying out his 1st, 2nd, 3rd, 10th, 11th and 13th proposals. He had already, under instructions received from the Chief Commissioner, carried out his 4th proposal in his Circular No. 103 of 1858, his 5th 6th, and 7th in his Circular No. 102 of 1858, his 12th in his Circular No. 101 of 1858, and his 14th in his Circular No. 104 of 1858.

I cannot find that he took any action whatever with reference to his 8th and 9th proposals, though he had been authorized to carry out the latter by the Chief Commissioner, and it was afterwards sanctioned by the Governor General in this letter. As regard the 8th, his intention seems to have been to refer to it in a new edition of the Punjab Civil Code, but no edition was afterwards published by the Judicial Commissioner.

In para. 12 of Judicial Commissioner's No. 530, dated 3rd November 1858, he expressed his concurrence in a proposal made by the Chief Commissioner in his Secretary's No. 788, dated 22nd October 1853, to add to the statement of the various terms of limitation the words—"In mortgages where land or other property has been placed in possession of mortgagee, the term within which redemption can be effected is unlimited."

Though a copy of the preceding paras. of this letter was forwarded to the Government of India, this para. was not copied. The words were however added by the Judicial Commissioner in issuing his Circular No. XI—29 of 1859. In the provision fixing the term of limitation for bonds, the word 'registered' was omitted before 'bonds,' though it had appeared in the Judicial Commissioner's Minute, and in the Chief Commissioner's letter to Government. This omission was made intentionally, as bonds under Rs. 50 were not required to be registered. The word, however, was accidentally allowed to appear in some copies of the Circular. This was ordered to be corrected by Circular No. 32 dated 24th March 1859.

The terms of limitation fixed in the Circular have been superseded by Act XIV of 1859, and the provisions as to registration of bonds by Act XX of 1866. Circulars 101, 103 and 104 of 1858 have been superseded by the Civil Procedure Code, and the orders introducing it under certain limitations.

VI.—SUITS HEARD ON THE REVENUE SIDE OF THE COURTS—LIMITATION.

Copy of a letter No. 1193, dated 21st August 1860, from the Secretary to Government Punjab, to the Financial Commissioner for the Punjab.

In replying to your letter No. 621, dated 6th ultimo, I am directed to express the concurrence of the Hon'ble the Lieutenant Governor in the views expressed in the 4th, 5th and 7th paras. thereof.*

2. Of the 12 instances in which you have proposed terms of limitation to the institution of suits, His Honor thinks that Nos. IV and V might be reduced from three years to one year, in harmony with the provisions of Act X of 1859. The Lieutenant Governor has not been able to find anything in the Punjab Law contradictory to this reduction. In the remaining instance, His Honor concurs in your proposals, and would not substitute the provisions of Act XIV or Act X of 1859, for those of the Punjab, when the latter is explicit.

3. The Lieutenant Governor agrees to the Commissioners having the dispensing power, admitting claims to disturb entries in the Settlement Records beyond the prescribed period, but it need hardly be said that this power will be exercised under a strict responsibility.

4. His Honor, lastly, approves of your issuing a Circular agreeably to your own suggestions, and the few modifications herein declared.

NOTE.—Under this authority Financial Commissioner's Book Circular No. XLVI—95 of 1860 was issued.

Extract part of para. 5 of a letter No. 59, dated 7th December 1860, from Secretary to Government of India, to the Secretary to Government Punjab.

5. His Excellency the Governor General is however pleased to approve of the modifications in the periods of limitation, which seem to have been well considered, and which have been made with the sanction of the Honorable the Lieutenant Governor.

Financial Commissioner's Book Circular No. XLVI—95, dated 12th October 1860, addressed to all Commissioners.

(ON REGULAR REVENUE SUITS.)
I.—The Class of Cases.
II.—The Periodical Returns.

By Circular No. 95 of 1855, the Judicial Commissioner, with the sanction of the Chief Commissioner, transferred all Regular Suits regarding land, or the produce of land, from the Civil to the Revenue Court. Settlement Officers had for some

* Para 4 of the Financial Commissioner's letter related to the line of demarcation between Regular Revenue and Civil Suits; para. 5 to periodical returns; and para. 7 to a proposal to abolish Summary Suits. In each case no change in the practice existing at the time was proposed by the Financial Commissioner.

III.—The Law of Limitation.

years * previously been vested with the full powers of the Civil Court over that family of suits, but now all Settlements have drawn to a close, and the Revenue Courts of the District have *sole* and *entire* jurisdiction over any suit relating to land, with the single exception of a suit which embraces a claim for chattels as well as for land, in which case the jurisdiction of the Civil Court is reserved under Circular No. 15 of 1856.

* Circular No. 122 of 1849.

2. It must, however, be distinctly understood that this order involved a change of jurisdiction *and not of Procedure* The course laid down by the Punjab Code, as subsequently amended by Judicial Circulars, is to be strictly followed in the Regular Revenue suit: the same Stamp law is to be enforced, and English judgments are to be recorded. You are expected to maintain over the decisions of your subordinates the same control as is enforced in the Judicial Courts. Your attention is called to Circular 2 of 1855, which points out that to give validity to a Judicial decision, the reasons on which it is based must be recorded in the vernacular language of the presiding Officer. The rights of no one are to be tampered with, or impaired by a *Summary* order on the report of a Tahsildar, or the petition of a Patwari when preparing the Annual Papers. A Regular Revenue suit, in which the parties concerned are legally impleaded, is the resort for litigants. The Civil Court files should be cleared of all suits relating to land, or produce of land; and all irregular miscellaneous cases, pending on the Revenue side, should in *future* be quashed as informal on a material point.

3. Mr. McLeod in his Circular No. 86 of December 6th, 1858, drew attention to this subject, and the replies have been collated and submitted for the orders of the Lieutenant Governor, and I am empowered to lay down the following rules as regards—

I.—The class of cases.

II.—The periodical returns.

III.—The Law of Limitation.

4. It is not possible to exhaust the variety of cases, and on the confines of the two jurisdictions, Civil and Revenue, there must be a debatable ground. It has been ruled that suits regarding the village site * or zamindars' houses, lie in the Civil Court; and all suits based on a bond, whatever may be the primary nature of the bond, must be brought in the Civil Court. Gradually other points may be ruled,—at present it will be sufficient to define Regular Revenue suits as belonging to one of the classes quoted in the margin †

† I.—All claims for the enforcement of accessory rights in landed property,—para. 8, Cap. I. Part. I. Punjab Code.

II.—All claims relating to Jagirs, Revenue free tenures, or other Government grants,—para. 10, Cap. I. Pt. I. Punjab Code.

III.—All suits for Rent, Revenue, Replevin, where the action is brought after one year from the date of the demand falling due,—Circular of F. C. No. 89 of 1855.

IV.—All suits for landed property of any kind,—Circular of Judicial Commissioner No. 98 of 1855.

* It has subsequently been ruled by His Honor the Lieutenant Governor (vide docket No. 279 of 15th February 1861,) that suits in which buildings in the village are considered as attached to lands (being transferred along with them to the new cultivator, on all occasions of change of occupancy) are to be heard in the Revenue Courts either Regular or Summary, according to circumstances.

5. In the Quarterly Revenue Business Statement there is a heading, No. 22, for regular suits, and I cannot bring myself to require any more returns. Whenever in any District the number of suits appears to be very large, or the subject to be neglected, you are at liberty to call for any of the returns prescribed for Civil suits, so as to keep yourself fully informed of the working of the Courts, and in your Annual Report there is a special heading, No. 10, reserved for your comments.

6. An opinion has been expressed in favor of getting rid of the class of cases called "Summary Suits," a special jurisdiction, which was introduced on account of the tardy action of the Regulation Civil Courts, and which is scarcely necessary in a Province where the procedure of the Courts is simple, and their action summary and cheap, but as some confusion might arise from the change at the present moment, the measure has been postponed. It must be understood that the Summary Suit can be brought in the cases noted in the margin † *only*, and that the period is for twelve calendar months from the date of demand or injury, as the cases may be: all other actions are regular suits.

†I.—Suits of Jagírdars, Muáfidars, and Lambardars for Revenue.
II.—Suits of landlords for rent.
III.—Suits of tenants for replevin.
IV.—Suits of tenants for exaction.
V—Suits of tenants for ouster.
VI.—Suits of Lambardars, Patwarís, Talukdars, for rights entered at Settlement. Suits to adjust Malbah accounts.
VII.—Suits of Abkarí * farmers for balances, and Abkarí sub-lessees on account of exaction.

7. The following is the Law of Limitation to be enforced in all regular suits filed after the first of January 1861.

Three (3) months or ninety days—to run in the 1st case from the date of order sanctioning transfer, and in the 2nd from date of injury.

I.—Suits for the right of pre-emption (where opportunity has not been offered,) or for damages for agricultural injuries, as bursting of band, or trespass of cattle.

One (1) year to run from October 1st of the year in which the right accrued.

II.—Suits for arrears of any wages, or perquisites of any village office, or for audit of Malbah accounts.

N. B.—The limitations of the Summary and Regular action are identical.

Three (3) years to run from October 1st of the year in which the right accrued.

III.—Suits for balance of rent, revenue, or any right recorded at Settlement.

N. B.—The Summary action is for one year: the regular for three.

One (1) year to run from the date of demand or injury.

IV.—Suits for damages for irregular or exorbitant demands, or obstructions at harvest. Suits for re-entry on fields, from which plaintiff has been ejected by any party whatsoever, or for obstructions at seed time.

N. B.—The limitations of the Regular and Summary action are identical.

* By the same docket His Honor has extended to all persons holding farms from Government, whether for the sale of Drugs, Grazing, Fisheries, Sayer dues &c., or of any other kind, as well as farmers of Land Revenue, the privilege of suing in the Summary Courts.

Six (6) years to run from the date of credit.

V.—Suits for refunds from Government of items irregularly credited on account of Revenue.

Six (6) years to run from the date of decree or cause of action.

VI.—Suits to execute a regular decree of a Revenue Court, and suits where special limitations have not been fixed.

Twelve (12) years to run from date of cause of action.

VII.—Suits for land, or shares in land, by whatever symbol or standard defined, whether the ownership of the land be claimed, or the assignment of the revenue.

Twelve (12) years to run from date of mortage.

VIII.--Suits to foreclose, or redeem a mortgage, where the land has not been delivered to, or placed in possession of the mortgagee, but merely hypothecated as collateral security for debt.

Twelve (12) years to run from that date.

IX.—Suits to foreclose or redeem a mortgage, where a definite date has been fixed, over which the mortgage is to extend.

Unlimited.

X—Suits to foreclose or redeem a mortgage where the land has been placed in possession of mortgagee.

Twelve (12) years. *Vide* Book Circular No. 33 of 1860.

XI.—Suits to disturb an entry in a Settlement Record, not the result of a contentious adjudication, and to supply an omission in a Settlement Record.

8. Commissioners are invested with a discretionary power to admit suits, which would be ordinarily excluded, but they must show good cause for so doing, such as minority, incapacity, prolonged absence, or some unusual circumstance.

9. The decision of Regular Revenue Suits may be safely entrusted to Tahsildars who are qualified to the task. If any Tahsildar be deemed not qualified for their disposal, he can prepare them for the decision of the Deputy Commissioner.

10. With the permission of the Lieutenant Governor, Revenue Circular No. 57 of October 14th, 1856, is cancelled, as inapplicable to the present constitution of the Punjab Revenue Courts. In the North Western Provinces the Collector has but a limited jurisdiction over a certain class of summary cases, the object of the order quoted in the Circular was to extend that jurisdiction. The Revenue Court of the Punjab is armed with the full power of the Civil Court in all matters connected with land by Circular No. 95 of the Judicial Commissioner of the preceding year, and no object is gained by restricting an Officer from the exercise of powers in the Summary Suit Court, with which he is vested in the Regular Suit Court.

NOTE.—The rules as to what suits should be heard on the Revenue side of the Courts are superseded by Act XIX of 1865. Summary Suits no longer exist as a distinct class, not being provided for by that Act, and being no longer privileged as to the amount of stamp duty payable. The rules as to limitation are superseded by the extension of Act XIV of 1859 to the Punjab.

Copy of a letter No. 109, dated 6th February 1861, from Financial Commissioner for the Punjab, to the Secretary to Government Punjab.

Suits regarding the village site or zamindars' houses.

Mr. Cust, in para. 4 of his Book Circular No. 46, dated 12th October 1860, stated that, "it has been ruled that suits regarding the village site, or zamindars' houses, lie in the Civil Court." I am not aware to what particular ruling he here refers, but I would remark that in some parts of the Punjab, as of other parts of India, certain dwellings in the village are considered as attached to certain lands, being transferred along with them to the new cultivator on all occasions of change of occupancy. All suits connected with these should, I think, clearly be heard in the Revenue Courts (either Regular or Summary, according to circumstances), and accordingly, if approved by His Honor the Lieutenant Governor, I should wish to subjoin a note to the foregoing clause of the Circular, excepting this class of cases.

2. Again, in the margin of para 6, he has named "Abkarí farmers" and their sub-lessees, amongst those who are entitled to sue in the Summary Courts, but he has not named farmers of other descriptions. All persons, however, holding farms from Government, whether for the sale of drugs, grazing, fisheries, sayer dues, or of any other kind, as well as farmers of land revenue, are, I believe, equally entitled with Abkarí farmers, to sue summarily, and accordingly I would propose to subjoin a note to that para. likewise, extending the privilege to the holders of Government farms generally.

Copy of a letter No. 279, dated 15th February 1861, from the Secretary to Government Punjab, to the Financial Commissioner for the Punjab.

In reply to No. 109, dated 6th February 1861, conveys approval of the proposed additions to Financial Commissioner's Book Circular No. 46, dated 12th October 1860.

NOTE.—The above is given as the authority for the notes added to Financial Commissioner's Book Circular XLVI—95 of 1860, in the third volume of his Circulars. The Circular has been given above with the notes referred to.

VII.—ADOPTION OF CIVIL PROCEDURE CODE.

Order of President in Council dated 4th November 1859, circulated by Judicial Commissioner in Circular No. 53 of 1863.

Perhaps it will tend to greater eventual uniformity if in all the Non-Regulation Provinces the Code be introduced as an authoritative guide only, supplementary to existing rules and subordinate to them for the present in authority, the several administrations being desired at the same time to keep in view, and to further, as occasion may arise, its eventual adoption.

His Honor in Council is accordingly pleased to sanction the adoption of this course, which, he believes, will gradually lead to an assimilation of practice all over the country.

NOTE.—See remarks *ante*, p. 117.

VIII.—CLAIMS TO ATTACHED PROPERTY.

Copy of a docket No. 60, dated 28th January 1861, from the Secretary to Government Punjab, to the Judicial Commissioner Punjab.

With reference to his No. 51, dated 23rd instant, approves of the Circular proposed to be issued by him regarding disposal of claims to attached property.

NOTE.—The Circular was issued as Book Circular No. XI—15, dated 30th January 1861. It is now obsolete, owing to the introduction of the Code of Civil Procedure, from which the procedure prescribed in it was borrowed.

IX.—DISPUTES CONNECTED WITH RELIGIOUS INSTITUTIONS.

Extract paras. 1, 3, and 4, of letter No. 164—1406, dated 30th March 1859, from the Judicial Commissioner of the Punjab, to the Secretary to Government Punjab.

I have the honor to transmit copy of a letter No. 73, dated the 28th instant, from Major Lake, Commissioner of Trans-Satlaj-States, on a point connected with the subject of your predecessor's Circular No. 23, dated 25th August last.

* * * * * * *

3. My opinion is, that your predecessor's Circular is not intended to preclude cognizance by the Civil Court of such claim as is now advanced by the heads of taluka Bargirain,—that such cognizance would not, under the Circular, be regarded as interference in the management of a shrine, but as a judicial act.

4. The position assumed by the plaintiff is that Sukhpurí has, by a course of conduct, lost the right to be head of the shrine, that therefore he should be dispossessed and his place pass to another.

5. Supposing the suit be brought, Sukhpurí may admit the profligate conduct attributed to him, but may deny that it justifies his eviction.

6. The issue then to be tried will be whether scandalous profligacy in his position should entail removal, and the parties to give evidence on this point are those who worship at, or have interests connected with the shrine.

7. I request instructions as to the correctness of the interpretation I have put upon the Circular.

Copy of a letter No. 266, dated 4th April 1859, from Secretary to Government Punjab, to the Judicial Commissioner Punjab.

In reply to your letter No 164, dated 30th ultimo, I am directed to state that the persons who complain of the misconduct of Sukhpurí, the incumbent in charge of the temple of Birch Mahadeo, should be referred for redress to the Civil Court.

2. The Circular No. 23, dated 25th August, is not prohibitory of the hearing of such claims.

Circular No. 23, dated 25th August 1858, from Secretary to the Chief Commissioner of the Punjab, to all Commissioner in the Punjab.

A question having arisen as to how far Civil Officers may or may not interfere in disputes among parties connected with Shrines;

Temples, Mosques, Tombs, and such like institutions, I am directed to communicate the following instructions :—

2. The distribution of proceeds, the succession to the rights arising from, or privileges connected with, these institutions, may be made the subject of a Civil suit, just like any other enjoyable thing, and the matter at issue in suit will be adjusted like any other case. If the existing Punjab Code do not specifically provide for the point in dispute, the Judge will proceed to ascertain the *lex loci* after the manner prescribed in the said Code, and he will conduct the case exactly according to the procedure prescribed by rule.

3. But the action of our officers will be *strictly confined* to judicial enquiry upon suits preferred, to proceedings according to usual procedure, to judicial decisions according to law. Our officers will have *nothing to do* with the management or administration of these institutions; they will *not* frame, nor cause to be framed, rules regarding them; they will *not* make any general arrangements for the benefit of, or the better regulation of, these institutions. They will settle particular disputes which may arise, but will *not* consider how such disputes may be prevented. The people must manage their own religious institutions. If such institutions suffer from internal disputes, that is their business, not ours.

4. So also, when breach of the peace may be threatened in consequence of such disputes, the Magistrate will interfere forcibly to prevent mischief without at all entering into the merits of the case. He will award possession according to Act IV of 1840. He will interfere in such cases just as he would interfere in a violent dispute about land, or a threatened affray about a house and tenements.

NOTE.—These rules are now superseded by Act XX of 1863.

X.—PRE-EMPTION.

Extract para. 2 from a letter No. 741, dated 9th August 1860, from the Financial Commissioner for the Punjab, to the Secretary to Government Punjab.

2. I request the authoritative decision of Government on the following points :—

III. That no party, who was a party *to the sale*, can turn round, withdraw his own property, and claim the right of pre-emption of the remainder as well.

Extract para. 4 from a letter No. 1238 of 29th August 1860, from the Secretary to Government Punjab, to the Financial Commissioner Punjab.

4. Your third rule is certainly correct, and the Lieutenant Governor affirms the principle that no person who was a party to a sale, can withdraw his property and claim the right of pre-emption to the remainder.

XI.—TAKING OF PETITIONS BY TAHSILDARS. &c.

Copy of No. 534, dated 25th July 1861, from Secretary to Lieutenant Governor, to the Judicial Commissioner for the Punjab.

In reply to his No. 391, dated 19th July, informs him that the Hon'ble the Lieutenant Governor approves of the Circular proposed

to be issued by him on the subject of *his** taking petitions in Districts.

NOTE.—The Circular referred to was Judicial Commissioner's Book Circular No. LV of 1861, which had been submitted to Government for approval. It is as follows :—

By order of His Honor the Lieutenant-Governor, and with the concurrence of the Financial Commissioner, it is ruled that Tahsildars are to take petitions in cases within the competence of the powers conferred upon them by the Commissioner of the Division, and to proceed to dispose of the petition without sending it into the Sadr office to be registered.

2. At out-stations, the Assistant Commissioner in charge will of course receive petitions of all kinds, referring to the Deputy Commissioner such as he may be unable to dispose of.

3. At the Sadr Station, Deputy Commissioners are strongly recommended not to reserve to themselves the privilege of taking petitions, when they have under them Assistants with full powers, *in whom they have full confidence.* The interests of the petitioners suffer from the formality of compelling all petitions to be presented to the Deputy Commissioner.

XII.—SUITS FOR THE CUSTODY OF WIVES.

Extract paras 1, 2, (part), and 3, of a letter from the Judicial Commissioner of the Punjab, to the Secretary to Government Punjab, No. 662—4989, dated 16th November 1859.

It has been brought to my notice that some difficulty has been experienced in our Courts in treating suits for the custody of wives, from an apparent discrepancy between the Judicial Circulars of the Board of Administration and the Punjab Civil Code. In rule 4 of Circular No. 691 of 1849, it is laid down that no wife will be forced to live with her husband. In paragraph 6, Section VI, Part I, Punjab Civil Code, it is ruled that a Civil Court will not restore the wife against her will, *unless assured of her good treatment,* thus leaving a discretion with the Civil Court in such cases to enforce the return of a wife to her husband.

2. Mr. Temple, in submitting this question, has, I think, given a satisfactory solution of the difficulty.

3. Mr. Temple observes that although, under the Board's Circular above quoted, a Magistrate may not interfere to oblige a woman to live with her husband, yet the Civil Court may, should it be satisfied that the woman will be well treated, make her over to her husband; and in the event of the woman, or the parent or brother with whom she may have taken refuge, refusing compliance, award the penalty prescribed in clause 12, Section I, Part II of Civil Code, for Contempt.

Extract from a letter No. 716, dated 7th September 1859, from Commissioner of Lahore, to Deputy Commissioner Lahore.

3. If such a suit were brought, the Civil Court would see whether the woman would in all probability be well treated. If the

* *Sic* in original. The word should apparently be omitted altogether.

Court were able to take such precautions as should appear satisfactory, it *could* certainly under the Code make the woman over to her husband, and it would enforce its order. If she or her parents or others resisted or disobeyed the orders of the Court, they would be liable to the penalties prescribed by Clause 12, Section I, Part II.

Extract from a letter No. 956, dated 19th November 1859, from the Secretary to Government Punjab, to the Judicial Commissioner Punjab.

In reply to your letter No. 662, dated 16th instant, I am directed to state that the view taken by the Commissioner of Lahore and yourself regarding the apparent discrepancy between the Civil and Criminal rules on the subject of the restoration, by the Courts, of a wife to her husband, appears to the Lieutenant Governor to be correct.

NOTE.—The construction thus approved of was published in Judicial Commissioner's Circular No. LXXXI—144 of 1859, in which rules founded upon the above correspondence were also laid down for the guidance of the Civil Courts in disposing of such cases, and a report was called for after six months.

The rules were contained in the 3rd para. of the Circular, which is as follows :—

3rd.—His Honor the Lieutenant Governor concurs with me in thinking that Mr. Temple's construction is correct. The course therefore to be pursued henceforth, in such cases, will be as follows :—

Suits for the custody of wives will be heard on the Civil side: should the Court be satisfied that the woman will in all probability be well treated, it will pass an order directing her return, at the same time making her over to her husband; and in the event of non-compliance with the order, it may award the penalty prescribed in clause 12, Section I, Part II of the Civil Code, for contempt. The parent or brother or other near relative, with whom she may have taken refuge, may be sued jointly with the woman herself, and is liable to the same penalty for non-compliance, which penalty may be repeated, on the petition of the husband, should the order be again disobeyed.

Copy of a letter No. dated August 1860, from Secretary to Government Punjab, to the Judicial Commissioner Punjab.

In reply to your docket No. 23, dated 30th ultimo, I am directed to convey the sanction of the Honorable the Lieutenant Governor to the Circular therewith transmitted, with the exception of the words commencing "lastly" and ending "her willingness to stay with him," or the whole of the last clause. His Honor is of opinion that it will be expedient to omit this sentence.

NOTE.—Judicial Commissioner's No. 23, dated 30th July 1860, forwarded for the approval of the Lieutenant Governor, the draft of Book Circular XXXV of 1860. In issuing the Circular the sentence objected to was omitted.

The Circular is subjoined :—

I have the honor, with the concurrence of His Honor the Lieutenant Governor, to issue the following instructions in modification of those contained in my predecessor's Circular No. 144, dated 23rd November 1859, regarding suits for the custody of wives.

2nd.—Wives should not, as a matter of course, be made over to their husbands against their own will, even though the Court be assured of their good treatment. Officers should, in the first instance, endeavour to ascertain what the woman's wishes really are, and use every endeavour by mediation to effect a reconciliation. If the woman of her own free will steadfastly refuses to go with her husband, she should not be forced to do so, or punished for non-compliance. Compulsion should only be used in cases where the Judge is convinced that the woman's refusal is made solely at the instigation, and under the influence of her friends.

XIII.—TRANSFER OF WOMEN IN THE SIMLAH HILLS FOR SUMS OF MONEY.

Extract from a Minute dated 31st October 1851, by C. G. Mansel, Esquire, Member of the Board of Administration for the affairs of the Punjab.

I would not interfere in the case of the Rani of Jubal, but would confine our proceedings to laying down rules and prohibitions or penalties, for the future.

We have two jurisdictions to deal with; first, that of the petty Independent Hill Chiefs, and that of the tract of country under our own direct criminal administration.

* * * * * * * *

Under all the circumstances of the case I would suggest as follows :—

That the Hill Chiefs be moved by the Superintendent to join with the British Government in issuing a proclamation in all the parts of their Independent States to the following effect—

That slavery be abolished.

That slave selling and purchasing, or importing or exporting for sale of slaves, be declared punishable.

That the selling of wives, and the taking of "*rít*"* from men taking away other parties' wives, be prohibited, except where the "*rít*" is awarded by the Government as a compensation for injured family honor from the seducer or keeper of the woman, to a husband who has not connived at the abduction.

That the enticing away wives and unmarried girls from their relations for the purpose of prostitution be declared punishable.

That the seizing and selling of women and children for arrears of revenue or other Government demand be abolished.

The punishment of all the above offences will rest with the Chiefs themselves. The general aid and control of the Superintendent in introducing the new rules will be afforded to the Chiefs.

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* This word is explained in the subjoined Extract from Board's No. 1325 dated 17th December 1851 :—

"The custom prevalent in the Simla hills of transferring women from one party to another (whether from father to suitor, or from one husband to another) for a fixed sum, regarded as the market value :—the amount of money thus fixed and paid is termed "*rít*," and although it is nominally considered to be a sum incurred on account of marriage ceremony, it is in reality the price of the woman, who is by purchase reduced to the position of a slave, the property of her husband for the time being, and reckoned by him as forming a portion of his available assets, in the same manner as his bullocks, his crops, or other disposable property."

As regards the territory administered civilly by ourselves, I would suggest that a proclamation be issued, embodying the above prohibitions and rules, and also the following in addition.

That adultery, that is, sexual intercourse of a married man or married women with strangers, or sexual intercourse of a man with a married woman, be declared punishable criminally. For a prosecution against a married woman it is necessary that the husband come forward.

That no action for "*rit*", except on the part of the husband against the seducer of his wife without the plaintiff's connivance,—or except on the part of a parent or guardian for the seduction of an unmarried daughter,—or except for the customary contracted betrothal expenses,—or except for compensation for the breach of a betrothal contract,—be heard.

All these cases being of the nature of judicial proceedings, held to enforce public morality, even though the medium be a private satisfaction,—for our system avowedly establishes or wishes to establish private compensation in injuries of this class, in the place of public criminal punishments,—they should all be received and tried on plain paper without vakíls or other complicated machinery, whether on the Criminal or Civil side of the Court. In the latter case they would be tried as Miscellaneous suits, or more properly as Civil suits tried in a criminal form, Government being the prosecutor at the motion of the plaintiff.

For facility of reference, I have prepared a copy of these proclamations in the vernacular, which can be altered as necessary.

In introducing the proclamations a time of warning should be allowed of some months, to prepare people to such of the rules as may involve penalties, and may be positive innovations on existing customs and habits.

Copy of a letter No. 479, dated 5th March 1852, from the Officiating Under Secretary to the Government of India, to the Board of Administration for the Affairs of the Punjab.

With reference to Sir Henry Elliot's letter to your address, dated the 10th of January last, No. 92, relative to a case of slave-dealing in the Hill State of Jubal, I am directed to inform you that the matter has been considered in the Legislative Department, and the Governor General in Council sees no objection to the measures proposed in Mr. Mansel's Minute of 31st October last, except that His Lordship in Council would hesitate, without further knowledge of the people for whom the rule is proposed, to make adultery a criminal offence, in the manner proposed by Mr. Mansel.

XIV.—KANGRA BETROTHAL RULES.

Extract paras. 2 to 10 of a letter No. 90, dated 15th April 1854, from D. F. McLeod, Esquire, Commissioner Trans-Satlaj States, to Judicial Commissioner, Punjab.

2. The main and fundamental feature of the scheme which has been laid down generally by Mr. Forsyth, the details being filled up by the people themselves, more or less under the guidance and with the aid of the district officials of different grades, and of their own

Chiefs, is, that in all matters connected with betrothals and marriages, and the social incidents connected therewith, a general supervision shall be exercised by panchayats of castes or tribes, selected by themselves, who shall keep a record of all such events, and be the referees and adjudicators, in the first instance, on all points connected therewith.

3. This principle I regard as of the very first importance; and should the effort prove successful, I think the advantages likely to result from it can hardly be over-estimated. It is now very generally admitted that, notwithstanding the favor and renown to which the system of Indian panchayats attained under native rule, it has hitherto been a failure under ours. But I believe this to have arisen solely from its having been uncongenially and inappropriately applied, and removed by the operation of our laws, courts, and mode of administration generally, from the influence and control of public opinion.

4. Of all description of panchayats, however, I have long been convinced that a caste or class panchayat is the one which is best, indeed I may say alone, adapted for general use under us. The intimate connection and intercourse which takes place between the members of a caste, trade, or tribe, renders it impossible that the opinion, or interests of its members generally, can be deliberately sacrificed by panches of their body, without the latter being made keenly to feel the effects, so that the most powerful, perhaps, of all guarantees for the exercise of sound judgment and integrity exists in their case, which is wanting in that of panchayats promiscuously formed; and if there be any class of questions with which such panchayats appear especially adapted to deal, those which appertain to a matter so closely affecting the social well-being and respectability of the class as marriage and its consequences, may surely be counted amongst the number.

5. The only power of punishment or coercion which it is proposed at present to confer upon these panchayats, is that of exclusion from social privileges, and I would observe in connection with this point, that although some persons may, *primâ facie*, object to our doing any thing which may be construed into recognizing the institution of caste, much less of encouraging its exclusiveness, it will be found, on a just discrimination, that the measure proposed cannot, with propriety, be thus characterised; the sole object being to place individuals under the control of the general opinion of the section of the community to which they belong, however this may be constituted.

6. Whether caste, tribe, occupation, religion, or other recognized distinctive distribution, determine a class to which a person belongs, will be immaterial for the present purpose; the adoption of that, which is most acceptable to the people, and best recognized amongst them, being the sole object: such distinctions, it will be admitted, must and do exist in all civilized countries in some form or other, and wherever they do exist, exercise a very powerful social influence,—being, in fact, the basis of all society.

7. That this power will, for the present, be sufficient, when recognized and supported by the local authorities, I feel little or no doubt. But this will necessarily be one of the principal points to be tested by the present experiment, and it will probably not be difficult hereafter to introduce, from time to time, such modifications

or additions, on this and other points, as experience may shew to be required.

8. A central, or parganah panchayat, in addition to the class, village, or talukah panches, will have to be appointed in each parganah to act as a referee and controlling authority. This must be a mixed body, and it will, I think, be a matter of much interest to observe how it acts. Though, as it will be a referee from bodies, each of whom act under powerful restraints, and its operations will be confined to the limits of a parganah within which all its members are familiarly known, I have myself but little fear for its integrity.

9. The matters, which it is proposed to place under the control of these panchayats, are the following:—

First.—The prevention of betrothals based on sordid motives, or effected in the way of exchange.

Second.—The prevention of breaches of faith, when once a betrothal has been contracted, and no valid grounds exist why it should not be carried out.

Thirdly.—To facilitate the re-marriage of widows, with the individuals of their own choice, a clause being added with a view to check or discourage the practice, as far as possible, of men having more than one wife.

10. The above are the primary duties for which they have been organized; but to these a supplementary provision has been latterly added, *viz.*:—

Fourthly.—To keep a record of all expected births, actual births, and subsequent deaths of female children in every family of a tribe in which infanticide prevails; the members of which shall be required to observe the ceremony of athwahan, or athwansa, a ceremony which is already very generally observed, by way of rejoicing, on the completion of the eight month of pregnancy.

AGREEMENT.

We, the undersigned, Brahmans, Rajputs, Khatrís, and all other castes, resident in the district of Kangra, being fully convinced of the evils which attend our present system of betrothals and marriages, have, with one consent, determined to adopt the following rules:—

1*st.*—The practice of taking and giving our daughters in marriage for a pecuniary consideration, or in exchange (batta), or of contracting marriages for future offspring, before they are born, shall be henceforth entirely discontinued.

2*nd.*—The custom of "Ghar Jawatri" by which a husband serves for a certain period in the house of his father-in-law, previous to obtaining a wife in marriage, shall be discontinued.

3*rd.*—To avoid any temptation to the indulgence of sordid feelings in betrothal, it is decided that should a person, who is without male heirs, wish to bequeath his property to his daughter, or son-in-law, he shall not do so until after the marriage has been completed. Also the custom, which is frequently followed, of a debtor betrothing

his daughter to his creditor, in lieu of payment of the debt, is henceforth prohibited.

4th.—In the separate agreement which is drawn up by each caste, are detailed the ceremonies to be observed at the time of betrothal; and we bind ourselves to adhere strictly to the rules laid down.

5th.—On contracting a betrothal, we agree that a written document shall be executed by the parents or other guardians of both parties, and shall be attested by two witnesses in the presence of the panchayat (regarding whom rules are framed in succeeding clauses); and a copy of this document shall be kept by the panchayat, who shall enter it into a book, and shall furnish an abstract of this register to the parganah panchayat twice a year.

6th.—When the ceremonies, prescribed in clause 4 and 5, have been completed, the betrothal shall be considered final and binding.

7th.—The only causes which shall be valid for annulling a betrothal, are as follows:—

1st.—Incurable blindness.

2nd.—Epilepsy and leprosy, insanity, or incurable disease.

3rd.—Cohabiting with low caste people, or associating intimately with such, or until properly purified.

4th.—Breach of caste.

5th.—Drunken habits.

6th.—Impotency.

7th.—Bad character, gambling, or excessive profligacy of any kind.

8th.—On the death of either of the parties betrothed, no claim whatevor shall remain to either party.

9th.—We advise, and will generally arrange, that betrothals shall be contracted between a youth of 22 years, and a girl under 11 years; or, in other words, that a girl shall be married to a youth double her age, as prescribed by the Shastras. But no restrictions are laid on older men, or a widower, from marrying a woman of any age. The betrothal should not take place before the girl is 5 years old, and the marriage should be completed betwixt the age of 7 and 11. Circumstances may delay the marriage till the girl is 14 years old; and with Rajpoots, who are generally absent on service, till a later period; but as a general rule, and unless sanctioned by the panchayat, if the man neglects to marry his betrothed by the age of 14, her parent may espouse her elsewhere.

10th.—The betrothal shall be contracted by the father of the girl if he be alive; if not, then by the next male heir; and if none, then by the mother in consultation with the relatives of the household. A betrothal, made by a woman alone for her daughter, shall not be valid.

11th.—In the event of the father having betrothed his daughter, and the mother giving her away elsewhere, she and the parties with whom the betrothal is made, shall be punished by exclusion from

caste. No boy's father shall contract a marriage, except with the girl's father, as prescribed in clause 10.

12*th.*—The rules regarding the marriage expenses, as established at the Amritsar meeting, shall be strictly adhered to.

13*th.*—Whoever will not abide by these rules, or shall destroy the decision of the panchayat, shall be excluded from caste; and if any one side with such person, he also shall be excluded from caste: such exclusion to last until the recusant parties signify their assent to the decision.

14*th.*—The panchayats are established for each caste, and in the separate agreements are entered the names of the jurors selected. They shall decide all disputes in the first instance, and an appeal shall lie from their decision to a parganah or talukah panchayat, also appointed in the separate agreements. An appeal from the panchayat can be preferred to the Courts of Law.

15*th.*—In the separate agreements are entered the names of the talukah panchayats.

16*th.*—In the decision of all existing betrothals, a register of all such shall be drawn up by the panchayat of each caste :—

Form of Register.

No.	Names of parties with parentage.	Year in which betrothed.	When to be married.	What agreements were made at the time of betrothal.

This register to be kept by the panchayat, and a copy to be filed in the Sadr or Tahsil Office.

17*th.*—The following rules are to be observed in deciding cases of disputed betrothals :—

First—If all the provisions of the espousals have been complied with, the panchayat shall order that the marriage be consummated. Recusancy to be punished by exclusion from caste.

Second—If the preliminary arrangements have been entered into, but the betrothal has not been confirmed by the usual rites, it shall be optional with the panchayat to enforce the marriage or not. But if they do so, they will make it a dharm "Natha," and will not allow any pecuniary consideration, or even exchange of betrothals.

18*th*—When betrothals, hitherto made for pecuniary considerations, are brought before the panchayat, they shall content themselves with enforcing the marriage, and shall not, on the one hand, order the money to be returned, nor, if any balance is still due, shall they allow it to be paid.

19*th.*—If exchange betrothals have been arranged, and the marriage of one party has been completed, the other party shall be compelled to fulfil his contract likewise. When, however, neither party has been married, it shall be optional with the panchayat to award the

marriage or not. In no case, however, where either of the betrothed girls die, will this be considered a plea for allowing the other party to refuse to fulfil his engagement.

20th. If any person has advanced money on the promise of obtaining a wife, and the betrothal has not been completed, the panchayat will not allow the betrothal to take place, but will order the repayment of the sum with interest.

21st. If a man wishes to marry a second wife, he shall state the fact of the existence of his first one before the panchayat, who shall make an entry to that effect in the register. Should he neglect to do so, and the other party ascertain the truth, it shall be ground for breaking off the alliance.

22nd. It is generally advisable, according to our customs, that widows shall reside in the father-in-law's family, and if they marry again, they ought to take their younger brother-in-law; but should the widow have any objection to marry him, and should prefer any one else of the same caste, she is at liberty to marry him; but in such case the family of the deceased husband will have a claim to recover from the second husband all the expenses of the former marriage.

In connection with the preceding agreement, a supplementary set of rules, for the better enforcement of the provisions of the Amritsar meeting, on the subject of infanticide, is drawn up.

First.—The panchayat in each village, which is empanelled to enquire into natha cases, shall also be employed to carry out the following rules.

Second.—They shall make themselves acquainted with the births and deaths, in every Rajput or other family where infanticide has been, or is likely to be practised.

Third.—To assist them in obtaining the necessary information, two or more respectable midwives shall be nominated, whose business it will be to report the fact of a birth, or the pregnancy of a woman in any of these families.

Fourth.—The custom of athwahan, or athwansa, when sweetmeats are distributed and rejoicings made on the completion of the eighth month of woman's pregnancy, is generally, but not always, adopted. Henceforth it shall be always observed, and the panchayat shall be informed.

Fifth.—On receiving information of the pregnancy, athwahan, or before, the panchayat shall make an entry in their register, writing down the probable date of the birth, at which period they shall be on the alert.

Sixth.—The report of the birth of a child shall be immediately made to the panchayat, who shall note down in the book the sex, and one of the number shall personally satisfy himself of the fact, and if a girl, the parents should be admonished of the necessity of preserving her life.

Seventh.—In the event of all intelligence being properly given, there will be no cause for the interference of the panchayat. But

in the event of a woman's pregnancy being reported, and not the birth, or of the child's dying at or immediately after birth, or in fact at any time till its betrothal, the panchayat shall assemble, and, if necessary, calling in the assistance of the "Bhaís" and other respectable persons, shall institute an enquiry: should there be no ground whatever for suspicion as to the cause of death, the fact should be reported to the Tahsíl. If, on subsequent investigation, the report of the panchayat is proved to be fabricated, they will be held answerable.

Eighth.—If the panchayat have grounds for suspicion, or are doubtful in any matter, they shall at once refer to the talukah panchayat, who will forthwith assemble and pursue a rigid enquiry, and the result, if satisfactory, should be forwarded, in form of an arzí, signed by all the members, to the Tahsíldar, who will not make any further investigation.

Ninth.—Should the two panchayats represent the case as suspicious to the Tahsíldar, he shall at once proceed in person to the spot, and examine into the case, forwarding the corpse to the Sadr station for examination.

Tenth.—The greatest care shall be enjoined on the panchayats, and Government officials, to see that the sanctity of a Rajput's privacy shall not be interfered with, and any breach of this will be animadverted upon by the authorities.

Eleventh.—Should the panchayat find that any persons have concealed from their knowledge the fact of a pregnancy or birth, or have perverted facts, they shall not punish the parties themselves, but shall report the matter to the Tahsíldar, who will decide the case on its merits, awarding a suitable punishment.

Twelfth.—The register which shall be kept up by the panchayat, shall be well bound and kept in a regular form hereafter prescribed. The panchayat shall make each entry at the time of receiving the information: the importance of this point is to be impressed upon all.

Form of Register.

No.	Date of report of pregnancy.	Probable date of birth.	Actual date of birth.	Sex.	If a girl, whether healthy or weakly.	Signature of parent or guardian.	In case of death, summary of investigation, with date of decease.

A copy of this shall be given to the patwarís and the Tahsíldars, and district officers will see that these registers are properly kept up.

Extract para. 2 of letter No. 279, dated 12th June 1854, from Secretary to the Chief Commissioner, to Judicial Commissioner for the Punjab.

The Chief Commissioner has read the memorandum itself, and Mr. McLeod's remarks upon it, and upon the subject generally, with

great interest. He entirely agrees in the tenor of Mr. McLeod's letter, and especially in his observations on the value of the system of panchayat by castes, as applied to the determination of such questions as the agreement has in view. The operation of the rules will require the vigilant supervision of the District Officers: what has been commenced by their zeal can only be advanced by their continuous efforts, and, if those effort slacken not, the Chief Commissioner sees every reason to expect the beneficial result which it is our earnest desire to obtain.

Extract paras. 7 to 9, 11, (part), 12, (part), 13, 14, 16, 18 and 22, from a Memo. dated 9th February 1857, by D. F. McLeod, Esq., Financial Commissioner for the Punjab.

7. But Mr. Jenkins, in the 36th para. of his Report, states that, in the majority of cases, the party injured refuses to accept damages, while the panchayats are unwilling to undergo the trouble and expense of prosecuting, or of enforcing the decree, and hence the refractory individual is liable to escape unscathed.

8. To remedy this, I would recommend that the panchayat be regarded as a corporate body, and authorized to prosecute through a paid representative, whose fees shall be paid from a fund to be established for meeting all expenditure connected with these panchayats.

9. As respects the other class of cases, in which, although a prescribed rule is transgressed, no individual has been injured, while I believe that the making over of a daughter or a ward, for a pecuniary consideration accruing to the parent or guardian, and other acts of a like nature prohibited by the Kangra rules, would be a fit subject for legislation, yet until such legislation shall have taken place, and these acts constituted misdemeanours, I know not how the awards of panchayats can be enforced where excommunication proves powerless, unless such breaches of rule be regarded as injuries inflicted on society, and the panchayats be authorized to prosecute for damages on society's behalf.

11. Major Lake has proposed that a fee of Rs. 2 be levied on every appeal from the village Panch to the Sarpanches; and Rs. 4 on every appeal from the latter to the Deputy Commissioners. The suggestion is, I think, an excellent one . . . . . .

12. He has further proposed that a fee of one anna be levied on every betrothal registered, and this, too, appears to me an excellent suggestion: indeed, I think it might well be fixed at twice this amount . . . . . Major Lake proposes that this fee should be appropriated by an officer of the Tahsil, but I see no occasion for this, as, if the Registers be correctly kept by the panchayats, it will give the Tahsil establishments no trouble to supply a quarterly report of the number of Registrations, which, I agree with him in thinking, they should be required to do. This fund, therefore, I would likewise reserve for the purpose of remunerating the Sarpanches.

13. I would further add to the above two sources of income, the amount of damages realized on behalf of society, or of any individual who might refuse to appropriate it: and from these

three sources it might be expected that a sufficient amount would be realized to meet all costs of prosecution, or other expenditure, and to remunerate the Sarpanches.

14. I would propose, at the same time, that the duty of keeping all records appertaining to each of the Parganah panchayats devolve upon one of the Sarpanches, who should be selected with reference to his fitness, leisure, or other considerations, and should receive for this duty a higher rate of remuneration than the rest. Not having the rules to refer to, I do not recollect whether the registration is in the first instance effected by the village panchayats, or by the Sarpanches, but if by the former, it should be the duty of the latter to compile a combined Register for the entire Parganah, and from this alone should the Tahsíl returns be taken.

16. I quite concur in the opinion expressed by Mr. Jenkins in the 46th para. of his report, that particular days, at considerable intervals, should be fixed for the hearing of appeals by the Parganah Sarpanches, and that the expenses incurred by these, and where necessary those also of witnesses, should be charged to the parties litigating, and realized in like manner with other costs. Once in three months would perhaps ordinarily suffice for the meeting of the Sarpanches, thus constituting a sort of quarter sessions. But in the event of any emergent matter arising, the Tahsíldar should have discretion to summon an extraordinary meeting.

18. In para. 15 of his report Mr. Jenkins explains the mode in which he disposes of petitions given to him, connected with matters investigated by the Panches, and I am of opinion that the observance of the same mode should be enjoined for the future, as well calculated to make the Panches feel that cognizance is taken of their proceedings without unnecessarily interfering with them.

22. In para. 40 he proposes that an addition be made to rule 7, declaring that, where a female has been betrothed, but not yet married, if the intended husband marry another female, this shall suffice to render the betrothal void, if the betrothed female's parents or guardians desire this, and no such permission have been stipulated for at the time of betrothal. This addition appears to me highly expedient, and I apprehend that, in most cases of the kind, the betrothed female's relatives will have moreover a fair ground on which to institute an action for damages.

The paragraphs of Mr. Jenkins' letter referred to by the Financial Commissioner are subjoined :—

Extract paras. 15, 40, and 46, of a letter No. 410, dated 30th August 1856, from Deputy Commissioner Kangra, to the Commissioner Trans-Satlaj States.

15. Up to May 1855 no cases appear to have been heard in Court, no appeals seem to have been preferred either to the Sarpanches or to the Sadr Court, and no decisions of the village Panchayats were brought for confirmation or orders either to the Tahsíldars, or to the District Officers; but from that month up to the present time it has been the custom to return all petitions presented to the plaintiffs with a written order that they be taken to the Panches for investigation and decision, after which it was optional with the plain-

tiffs to bring the copy of the panchayat's proceedings into Court for confirmation. I am inclined to think this latter is the best plan. It ensures the Panches not only taking up the case, but taking pains in disposing of it, for they are aware that their decisions are liable to be taken before the District Officer. Since my arrival I have generally, though not always, for safety's sake, handed the written decrees of the village panchayats thus brought to me to the Sarpanches for their opinion, and on receiving the misl from them again, have passed such orders as the merits of the case appeared to deserve. Doing this has, I believe, been of advantage both in ensuring justice, and in preventing appeals which might otherwise have been preferred.

40. Rules 1 to 6 should, I think, be left as they now stand, but to Rule 7 I would add a clause invalidating any betrothal, when the bridegroom shall, after being duly betrothed to one girl, marry another, unless at the time of betrothal to such girl his intention to marry another first should have been declared and agreed to by the parents of the girl. It sometimes happens that a parent claims release from the contract on the grounds that his intended son-in-law had, unknown to him, wedded a wife after betrothing himself to his daughter, and that if he was forced to marry his daughter to him, she would not even hold the position he intended for her of being his first and only partner.

46. There are a few matters of detail which also seem to me to require amendment. At present it is the custom, when appeals against the orders of village Panches are preferred, to forward them direct to the Tahsildar, who has to collect the various members of the Sarpanches, and cause them to hear the merits of the case, and give their orders thereon. It will be seen that if this plan is kept up, and appeals increase, the Sarpanches will have no rest, but be constantly harrassed by having to attend when every single case may come in appeal. To remedy this I would propose that in the various Talukahs certain dates be fixed on which the Sarpanches will be required to attend to decide all the appeals that may have accumulated. These meetings should be held every 2 or 3 months, not oftener, and appellants informed that not only they, but all their witnesses, would be required to be present. The parties for the defence would have to be summoned by the Sarpanches, through the village panchayats, who likewise should be ordered to accompany the litigants, and afford aid either in exposing the principal points in the case, or in answering such questions regarding the grounds of their decisions as the higher tribunal might find it necessary to put to them. The District Officer, one of his Assistants, or Tahsildars. should. I think, preside on such occasions; and as it is probable that the Sarpanches will be put to some expense and inconvenience, even if this proposal is followed, I would suggest that each member be allowed 8 annas a day for expenses. The aggregate sum thus paid to the Sarpanches to be levied from the various losing parties, who would be fairly chargeable with all costs of their cases. Such costs too, to be taken on the spot, and distributed to the Panches before the meeting broke up.

Extract paras. 3 and 4 of a letter No. 182, dated 1st May 1857, from Secretary to Chief Commissioner Punjab, to the Judicial Commissioner for the Punjab.

3rd. All the proposals of the Financial Commissioner are approved, *viz.*, that the panchayat be considered as a corporate body, and

be allowed to prosecute through a paid representative, whose fees shall be taken from a fund to be established for meeting all such expenditure.—That a fee of 2 rupees be levied on every appeal from the decision of the village panchayat to the Sarpanch, and of four rupees on every appeal from the latter to the Deputy Commissioner, and that two annas be paid on the registry of every betrothal.—These fees will be credited to the fund for remunerating panchayats. I am further to authorize the appropriation of all damages, as described in para. 13 of Mr McLeod's memo. for the same object.

4th. The plan of requiring one of the Sarpanches, selected for his qualifications, to keep up and be responsible for all the records, should be adopted; he will of course be remunerated for his additional labors. The preparation of the Registers, in the manner suggested in para. 14 of the above cited memo., is approved, together with the several other recommendations of the Financial Commissioner, and I am to request that all may be introduced as soon as practicable.

NOTE.—The rules made in 1854, as modified by this letter, were those referred to by Judicial Commissioner in para. 21 of his No. 461, dated 28th September 1858 to the Chief Commissioner, (*ante, p.* 167). That para. contains his 8th proposal, to which sanction was accorded in para. 6 of Government of India No. 585, dated 20th January 1859.

In 1860, on the proposal of the Commissioner of the Trans-Satlaj States, Rules No. 1 to 10 of those made in 1854 were retained, and all the others set aside, a few new rules being added from Judicial Commissioner's Circular No. 102 of 1858.

Extract paras. 19 to 35 of letter No. 118, dated 11th July 1860, from Commissioner Trans-Satlaj States, to Judicial Commissioner Punjab.

Future arrangements.

19th. I now come to the arrangements to be made for the future. There are the *Agency*, the *Law*, and the *Procedure*, to be considered.

Agency.

20th. The Agency.—Major Lake has recommended a return to the exclusive action of the Courts. Mr. Forsyth has proposed an intermediate course, whereby a modified form of Panchayat shall be maintained. The first impulse of most of the Sarpanches, when asked their opinion, is to advocate the entire abolition of the panchayats, but the more intelligent amongst them hesitate. They say "do not set our teeth on edge with sour fruit: give us a complete measure or none at all." The present system is most unsatisfactory to them, because it really is neither one thing nor the other. There is the semblance, without the reality of a working institution. The opinion of the Panches seems to be not averse to doing away with the village panches. This course I strongly recommend. It will be almost impracticable to compensate them for their labor, and, being chiefly ignorant men, I think there can be no doubt that they are more an incumbrance than otherwise, now that the Natha litigation is running in a narrower channel. I therefore recommend that no more judicial work be entrusted to them. There are from three to six or seven panches in each village at present, and although I would make no future use of them in the adjudication of cases, I think that two of them should be maintained in each village for the registration of

The village panches to be abolished, except for registry.

betrothals, and of births and deaths of female children. They should receive the two annas fee as their perquisite, without any enquiry on the part of Government.

Sarpanches—one to be appointed for each Talookah.

21*st*. The Sarpanches at present exist for each Talookah. But they are too numerous, being seldom less than three, and frequently five in number. It appears to be an important object to provide a suitable maintenance for them, and this can only be secured by having one panch to a Talookah. They seem to be afraid of the appointment of only one man to a Talookah, as proposed by Mr. Forsyth, and urge the association of two or three together. But I am not inclined to recommend this. In the Kangra district there is a superior class of Chaudhris, known in some parts of the District as Kotwals, which affords an excellent machinery to work through. These men, with the experience of the past, naturally dread being isolated in a position where a great deal may be exacted from them without any, or at best, a small return and they are not prompt to come forward. But I entirely agree with Mr Forsyth's proposition, and recommend that one Sarpanch be appointed as Natha Panch in each Talookah where a suitable person is available, and where such is not available, that a Panchayat of three of the best men be convened.

Return to the Courts not advocated.

22*nd*. I do not recommend a return to the exclusive operation of the Courts, because, although I believe a good officer could decide cases just as expeditiously and as well as any panchayat, I do not think there would be the same scope for working on the moral imperfections of the community as there would be when a non-official panch had the investigation and primary decision in his own hands Moreover, it is desirable to give the people every opportunity of assisting in the administration, especially at the present time, when it is the wish of the Government to maintain the position of those who are elevated above the mass. But of course the District Officer must work the rules that are prescribed for his guidance. and he must exert his personal influence on the people, or the best scheme that could be devised would be so much waste paper.

Law.

23*rd*. *The Law.*—The local rules now in force are 22 in number, and are to be found in the enclosure to the letter of the Commissioner Trans-Satlaj States, No. 90 dated 15th April 1854. The whole general law relating to betrothals is to be found, I believe, in Section 6, part 1 of the Punjab Civil Code, and the Judicial Commissioner's Circular No. 102 of 1858. Some of the local rules are either superfluous or obsolete, or opposed to the general law of the Punjab. Such are No. 11, which provides that a mother betrothing her daughter, when her father has already betrothed her elsewhere, shall be excluded from caste; No. 13, which prescribes the punishment of exclusion from caste generally against those who disobeyed the local Kangra rules, or abet their infraction; No. 14, which ordains that cases are to be decided by the village panches, then to be appealed to the Sarpanches, and thence to the Courts; No. 15, which names the panches; No. 16, which gives a form of register of betrothals; 17 which gives rules for the decision of the cases, *viz*, first, if the betrothal be proved, marriage to be ordered, otherwise exclusion from

Obsolete rules.

caste, and, second, if only the preliminary engagements, and not the betrothal, have been completed, the panches to use discretion in awarding marriage; No. 18, which provides for the decision of old sordid betrothals; No. 19, which provides that in exchange marriages, where one party has been married, he must perform his engagements to the other; No. 20, which rules that where money has been advanced for a wife, but betrothal is not made, the panchayat is not to allow betrothal, but to order refund of money with interest. There is also one clause about which I am doubtful, *viz.*, No. 22, which provides for the repayment by the second husband of the marriage expenditure incurred by the first husband of a widow. I am inclined to recommed the exclusion of this clause. Certainly the people have a very strong feeling on the subject. They think it bad enough that a widow should be allowed to select for herself, and they will not like the repeal of the order relating to expenditure. Nevertheless, as we have very properly refused to acknowledge the feeling that would degrade a woman to a mere beast of burden, so I think we should adopt the principle that has been laid down for betrothals, and declare the contract voided by death. I therefore add clause 22 to the clauses to be expunged.

A revised Code of rules proposed.

24*th.*—There then remain ten of the original Kangra rules. These I would not touch. Although in the form of an agreement, and somewhat amplified, I think that it is for the well-being of the people of this District that they should remain. I have accordingly transcribed them in the annexure to this letter, and have added such clauses from the Civil Code, and Judicial Circular above quoted, as will supply the place of the rescinded clauses, and complete the law as it stands for the Punjab. The old rules are numbered 1 to 10, and the additions are from eleven to the end. These rules I would propose for future observance in the Kangra district.

Examination of certain rules.

25*th.*—But it is necessary that the precise force of these first ten rules should be understood.—No. 1 stops the receiving money or an exchange for a betrothal. Are claims to be heard when either of these conditions prevails or not? If a negative answer is given, clauses 12 and 13, which are taken from the Civil Code and Judicial Circular No. 102 respectively, are negatived. I would therefore recommend that the course allowed by clauses 12 and 13 be observed, and that Clause 1 be merely a standing warning and memento to the Panches; and the Deputy Commissioners to use their utmost personal influence to prevent sordid betrothals.—Clauses 2 and 3 are inoperative, except as they record the desire of the better-feeling part of the community and the wish of Government, and I would retain them with the same object as No. 1.—As to No. 5, it should be distinctly laid down whether a claim can be heard on an unregistered betrothal. Having witnessed the success of the registration, I think it may well be declared to be a compulsory process, especially as the panches have of themselves initiated this principle.

Procedure—Petition of plaint.

26*th.*—We now came to *Procedure.* I would start with the axiom that the least possible amount of interference with the panchayats is to be allowed. I recommend that every plaintiff be required to present his

petition on plain paper to the panch (of course I allude to the new Talukah panch) and that, if a petition is presented in Court, it be returned to the petitioner without any order being engrossed on it, with a verbal intimation to present it to the panch. Reaching him, the petitioner must first pay the 2 rupees fee, which shall then and there be appropriated by the panch without any let, hindrance, or enquiry whatever.

Means of summoning witnesses.

27*th*.—Nearly all the Chaudhris or Kotwals have the village Batwals or Chaukidars in attendance on them. This is a remnant of the old times, which it would be a great pity to destroy. The Sarpanches of the Nurpur and Kangra Tehseels have always been in the habit of summoning the parties and witnesses through these functionaries, and where this course is practicable, it should be recognised for the future. Where the Batwals are scarce, or it should be found impracticable to work through them, the panch must be allowed to send a summons through a coolee, and require the party at whose requisition he is sent to pay 2 annas for the trip. This has actually been done in the Nadaon and also, I think, in the Haripur Parganah.

The Record.

28*th*.—The case being decided, the Sarpanch should keep the record of the case in his own house. If the party desires to appeal, the panch must get a translation made into Urdu of the proceedings, and send them into Court by the hands of the appellant, who will have to give in a stamped paper of 4 rupees value before his appeal can he heard. But no case should be sent for, unless under very exceptional circumstances, without it is appealed.

The place of enquiry.

29*th*.—The panch should make his enquiry in his own house and village, and on no account be summoned to the Tahsil, either for statistical or other purposes connected with betrothals. The Tahsildars should be warned against sending for the Natha panch except on absolute necessity: he should not be summoned to Court for explanations, unless it is unavoidable, and then no officer under the rank of Deputy Commissioner should be allowed to send for him.

The decree.

30*th*.—Of course the decree must be for the "Natha," or in default for damages. Now damages have hitherto failed to deter men from faithlessness, simply because they have been pitched so low that the father of the girl can always get far her hand from some one else a higher sum than that decreed. It appears to me to be absolutely essential that some stringent rules should now be adopted. The Government will not, I imagine, apply to the Legislative Council to make the breach of betrothal contracts a misdemeanour punishable with fine and imprisonment, so that we must see what can be made of the Civil Law Now I recommend that it be a standing rule that, in all cases of faithless refusal to perform the contract, damages be assessed as an alternative to the Natha at so high a figure as shall be entirely beyond the power of the defendant or of any of his caste brethren to pay. I would insist on execution being sued out either by the plaintiff, or, if he does not do so within the period for appeal, by the panch. I would make it obligatory on the panch to sue out execution. The defendant's property should be immediately attached and sold. It would not fetch anything

Panch to sue out execution.

like the value of the decree, and for the balance I would put the defendant in the Civil jail for a period not exceeding one year, as authorized by the Civil* Code in the case of unliquidated money decrees. Release should be granted at any time on the prisoner expressing his readiness to fulfil his contract. One or two such instances in the Kangra District, and the universal feeling seems to be that there would be an end to faithlessness. I would accumulate a fund from which the diet money of such prisoners should be defrayed. The hill people will *not* take damages. I would therefore place all sums realized under the above process in deposit.

Clause 21, Section 5, Part 2.

31*st*.—But it is also, I think desirable, that the law should be extended to meet the case of the party who marries a betrothed girl, no suit having yet been instituted by the person jilted. Ignorance cannot be pleaded in extenuation. Every one of the caste knows perfectly well when a betrothal has been made. The registration system places every body, whose interest it is to enquire, in possession of this information. Marriages of this kind are known in the district as "raula," or skirmishing marriages, and popular feeling is more against the seducer than the father-in-law. The latter the people would only punish half as much as the former. The Chief Commissioner in his letter No. 546, dated 12th September 1855, hints at the possibility of extending the law to meet the case of these seducers. I recommended that it be so extended. I think the rival who carries off the girl in a hurry, knowing that she is already betrothed, should be made co-defendent with the father, mother, or guardian of the girl who has broken the contract, and that heavy damages should be given against him, to be recovered in the same way, and with the same eventual certainty of imprisonment in the Civil Jail, as in the case of the father of the girl.

Law to be extended to meet case of party marrying illicitly a betrothed girl.

32*nd*.—But still it is necessary to provide for stopping a marriage pending a suit for a Natha. The moment the aggrieved party complains, up starts the rival and gets married before a decision can be passed. I think the panch on being certified by the plaintiff of his fear that the father or guardian will marry his daughter elsewhere, should be allowed to demand security in a reasonable amount from two relatives of the father or guardian that they will prevent the girl being married elsewhere until the decision has been passed and the period for appeal has elapsed. Should the father, notwithstanding the order, which should be simultaneously given him by the panch, not to dispose of his daughter, marry her elsewhere, he should be punished for contempt of Court, and the recognizances of the securities should be estreated.

Security to be demanded for not marrying a girl elsewhere *pendente lite*.

33*rd*.—I think these measures would meet the necessities of the case without involving any difficult alteration of the law. It may be asked what is the necessity for any such exceptional legislation? I would answer that, although there is nothing radically different in the social aspect of the Kangra district from the rest of the Punjab, the people are much more susceptible on matters connected with their betrothals than probably any other, and that

Expediency of a somewhat exceptional legislation for the Kangra District.

having a machinery at hand, and having already introduced these somewhat exceptional rules with a certain degree of advantage, though under very unfavourable circumstances, it would be a source of regret were they to be now abandoned.

Further remuneration of panches.

34*th*. The panches will not, in all cases, be adequately remunerated by the 2 rupees fee. I therefore would suggest that the Deputy Commissioner once a year take over the records of all the cases decided by them, and make up to them the difference between what they have received and 6 rupees a month, the money to be paid from the unclaimed damages fund. This will not be too much, as I have yet a proposal to make about registration.

Registration panches.

35*th*. I have already intimated that I propose to maintain two panches in each village for the registration of betrothals and infantile female births and deaths. Among the present village panches, the Lambardar is one: I would always keep the Lambardar and another panch as registrars. The forms of registers now in use are practically useful, and need no alteration. I think that the village registrars should be required to take their betrothal registers to the Tahsíl at the end of every month as at present, and at the close of every quarter that they should convey them to the panch of their Talukah, who should transcribe all the entries into a general register for the Talukah. This is already done in the Nurpur parganah. It is desirable that the panch should have ready means of reference on the fact of a betrothal being questioned.

Rules.

11*th*.—In no case can the Court compel either party to complete the marriage against his or her will.—*Clause* 13, *Section* 6, *Part I*, *Civil Code*.

12*th*.—No person who has paid a valuable consideration for a bride shall be entitled to recover the same by an action in Court. He may sue, on the breach of the contract, for damages for injured feelings, and recovery of legitimate expenses, but not for any specific sum paid as the price of the woman.—*Judicial Circular No.* 102 *of* 1858.

13*th*.—In exchange contracts of betrothal each party will be bound by his or her own contract, and the breach of engagement by one party will not entitle the other party to violate his engagements, but only to recover damages in the Civil Court.—*Judicial Circular No.* 102 *of* 1858.

14*th*.—If a person who has contracted betrothal with a girl, before completion of his marriage with her, contract a marriage with another woman, the earlier betrothal engagement may be broken off at the option of the betrothed girl or her relatives.—*Judicial Circular No.* 102 *of* 1858.

Extract paras. 2 and 5 of letter No. 403, dated 4th August 1860, (camp No. 30, dated 1st August) from the Judicial Commissioner for the Punjab, to the Secretary to Government of the Punjab.

2. Mr. Melvill having, in the presence of Mr. Forsyth, the Deputy Commissioner, and of Extra Assistant Jaishí Ram, made a

* Rules 1 to 10 are not reprinted, as they will be found *ante*, *pp.* 183 and 184.

long and searching enquiry from the village and Talukah panches, has expressed his conviction that had the rules, originally devised by Mr. Forsyth, and subsequently modified and improved, been fairly worked, and had the system been properly superintended, the result would have been to a high degree satisfactory. Mr. Melvill therefore does not agree with his predecessor, Major Lake, that in future all disputes regarding betrothals be heard in the regularly constituted Courts of the district, but proposes that a modified panchayat system, with revised rules of law and procedure, be tried.

5. I however unhesitatingly recommend that the scheme be allowed a fair trial, and that a report be submitted at the expiration of twelve months.

Copy of a letter No. 468, dated 7th August 1860, from the Secretary to Government Punjab, to the Judicial Commissioner.

Reply to camp No. 30 dated 1st August. The Lieutenant Governor agrees to the experiment being tried. Officers of experience like Mr Melvill, Mr. Forsyth, and Mr. Saunders, ought to know best. The difficulty will be to work the plan well, but the local officers interested in the matter have this in their hands. A special report to be sent in at the end of a year.

NOTE.—These rules have never been repealed, but the tribunals established to carry them out having ceased to exist, it is doubtful whether they are now enforced, except so far as they establish a system of registration of betrothals.

XV.—A CUSTOM OF THE SHAWL-WEAVING TRADE NOT TO BE RECOGNIZED BY THE COURTS.

Extract paras. 1, 3 and 4, of a letter No. 873, dated 15th October 1859, from Secretary to Government Punjab, to the Judicial Commissioner for the Punjab.

1*st*. I am directed to reply as follows to your letter No. 553, dated 27th ultimo, regarding the expediency or otherwise of affirming in our Civil Courts, the custom of the shawl-weaving trade, by which the second employer of a workman or apprentice is made liable for half the debts of the latter to the first employer.

3*rd*. To affirm the liability of the second master would, the Lieutenant Governor apprehends, not only be an exceptional measure in Civil jurisprudence, but would also tend to perpetuate the system of advances, and the embarrassments of the workmen, and by the artificial limitation of wages, might ultimately lead to serious disorder. For these reasons His Honor would not affirm the custom of the trade in our Civil Courts.

4*th*. The Lieutenant Governor agrees with Mr. Cust that, for the protection of the masters, the provisions of Act XIII of 1859, promulgated in the *Punjab Gazette* dated 15th July last, should be enforced, wherever workmen or apprentices fail to perform work for which they have received advances. If this law be judiciously administered, fraud and desertion will be rare.

NOTE.—Orders were issued by Judicial Commissioner, making known the rule here laid down, with reference to Section III, para. 8 of the Punjab Civil Code, Part I, in his Book Circular LXXI—132 of 1859.

XVI.—RULES AS TO SERVICE OF CIVIL PROCESS IN NATIVE STATES, CIS AND TRANS-SATLAJ.

Extract from a letter No. 149, dated 20th May 1858, from Commissioner and Superintendent Cis-Satlaj States, to the Secretary to the Chief Commissioner for the Punjab.

VIII. We hope that in future, according to the usage of the past, the British Government may not interfere with the action of our Civil Courts, and that no claims against our subjects may be heard in the Civil Courts situated in British Territory.

10*th*. The question of the jurisdiction of our Civil Courts, is one of no little difficulty in practice. Previous to the year 1853, the usage was to refer all suits against subjects of Foreign States to the tribunals of the territory in which the defendant ordinarily resided. But in that year a new system was carried out for the first time, although the orders prescribing it were issued by the Punjab Board of Administration on the 13th October 1849, (No. 608). These rules declared that actions could be brought in our Courts against subjects of Foreign States, provided the cause of action arose in our territory, or the defendant possessed property therein. The decree, however, could not be enforced except on the property lying within the jurisdiction of our Civil tribunals; and the person of the defendant was not liable to arrest unless he should be found in British Territory. These rules were distasteful to the Chiefs, and have not worked well in practice. The Chiefs oppose a passive resistance. The Vakíls neglect to serve the usual notice on the defendant; the case is generally decided *ex parte*; and frequently the decree remains a dead letter. The defendant is sometimes arrested on a suit that he knows nothing about, when he ventures within the jurisdiction of our Courts. We are endeavouring to remedy these evils, by insisting on the notice being served on the defendant, pointing out that it is an unmitigated injury to him to withhold all information of the suit entered against him. I also proposed in my letter No. 2, dated 30th March 1857, to retry a case which has been decided *ex parte* in the event of the defendant's arrest in our territory. The subjects of Native States freely resort to our Courts to prosecute claims against parties resident in our own territories, and the processes of the law are put in force for them without respect of persons. They enjoy, therefore, a great advantage over our people. To ensure any thing like reciprocity for our own subjects in prosecuting their claims against residents of Foreign territory, we must not limit them exclusively to the Foreign tribunals. It is fair, if the cause of action arose in our territory, or if the defendant has property here, to give a plaintiff the option of entering his suit in our Courts.

I do not therefore advocate any change in our present system, the more especially as all the territory surrounding these Native States is now brought under the Punjab Government.

NOTE.—The letters laying down rules upon the subject from 1848 to 1856, are here collected in explanation of the system which had been established in the Cis-Satlaj States, and which was objected to by the Chiefs.

Extract paras. 1 and 2, and part of para. 3, of letter No. 84, dated 10th April 1848, from Secretary to Chief Commissioner, Cis and Trans-Satlaj States, to Civil and Sessions Judge, Ambalah.

I am directed by the Honorable the Chief Commissioner to acknowledge the receipt of your letter No. 128, dated 4th instant,

with enclosures, relative to the jurisdiction of the Civil Courts in the Cis-Satlaj States, in cases in which the residents of Independent Sikh estates are parties.

2. The Chief Commissioner considers that in all cases in which either party is a resident within the jurisdiction of our Courts, or where the cause of action arose within the jurisdiction, the case is cognizable by the regular Civil Court.

3. In cases in which the parties are pattidars of Independent Ilakas, or residents of such Ilakas, where the cause of action arose in such Ilaka, the case is not cognizable by the Civil Courts, but by the officers of the Political superintendency . . . . . .

Extract paras. 3 to 6 of No. 137, dated 9th May 1848, from same to same.

3. In the lapsed and confiscated territory our Civil Courts have jurisdiction, but not in the Independent Protected States.

4. On referring to the letter of the 10th April, the Chief Commissioner observes that there is certainly an error in the instructions conveyed in para 2.

5. The rule should be that in cases in which the defendant is a resident within the jurisdiction of our Courts, or the cause of action arose therein, the case should be tried by the Civil Court.

6. Where the defendant is the subject of an Independent State, and where the cause of action arose therein, the case is not cognizable by the Civil Court, but should be disposed of by the Political authorities.

Extract paras. 1 to 3 and 5, of letter No. 209, dated 13th June 1848, from Secretary to the Chief Commissioner Cis and Trans-Satlaj States, to the Commissioner and Superintendent Cis-Satlaj States.

I am directed by the Hon'ble the Chief Commissioner to acknowledge the receipt of your letter No. 93, dated 16th ultimo, regarding your construction of the rules laid down in my letter of the 9th idem, relative to the jurisdiction of the Civil Courts in the Cis-Satlaj States.

2. His Honor remarks that where the defendant is a resident within the jurisdiction of our Courts, or where the cause of action may have arisen therein, the case is cognizable by the Civil tribunals.

3. This is a rule of general observance,—it gives no jurisdiction to the Courts over the person or property of the subjects of Independent States within those States, but the Court has jurisdiction over the persons and over the property of all parties residing or found within the limits of the British districts.

5. The Court could issue a notice, and if the defendants were not found within the jurisdiction, the Political Officer might be requested to cause that notice to be served on him, or an Ishtahar would be stuck up at the Court door, and if the defendant did not appear, the case would be proceeded with *ex parte*. A decree in such case would be executed against any property which the defendant might have within the limits of the jurisdiction,—or in due form of arrest against his person, if found therein.

Extract part of para. 2, paras. 3 to 5, 7 and 8, of letter No. 608, dated 13th October 1849, from Secretary to the Board of Administration to Civil and Sessions Judge, Cis-Satlaj States.

2. * * * * * The rules laid down by His Honor the late Chief Commissioner in Mr. Inglis's letter No. 209, dated 13th June 1848, to the address of the Commissioner and Superintendent, are clear and correct. A copy of that letter is annexed for your information.

3. You will observe that according to it any party is amenable to the jurisdiction of the British Civil Courts, if the cause of action arose within their jurisdiction, and either he is resident, or any of his property situated within those limits.

4. This rule is of general application, and includes Independent Chiefs and their subjects. When the cause of action has arisen within the jurisdiction of a Civil Court, it is only necessary for the plaintiff to shew that the person or property of the defendant is within that jurisdiction, and his claim against him, be he who he may, can be heard.

5. But the Civil Court can only issue process against the person or property of such defendant within their jurisdiction, and not in a Foreign State.

7. The Board desire me to add that although this rule is peremptory and universal, they consider that you should carefully watch the proceedings of your subordinates in all cases affecting one of the nine Sovereign Chiefs, and allow no process to issue without your sanction; and they request that you will not permit any Civil process to be attempted to be carried out in a Foreign State.

8. Copy of this letter has been sent to Commissioner and Superintendent, Cis-Satlaj States.

In 1853, the Commissioner Cis-Satlaj States having demurred to serve a notice received from the Civil Judge of Dehli upon a defendant in a Civil Suit resident in Pattialah territory, the Judicial Commissioner, in letter No. 1472, dated 6th August 1853, instructed him to have it served through the Agent of the Rajah of Pattialah.

"Should the defendant" he said, (para. 2) possess property at Dehli, or anywhere in our territory, and in his absence a decree be given against him, his property there will be liable to be sold for the debt, and a great injustice would be done him by not affording him information of the suit having been instituted against him."

The Commissioner stating that the Pattialah Vakíl strongly objected to his procedure, and that it was opposed to the established precedent of his office, the Judicial Commissioner laid the correspondence before the Chief Commissioner.

In reply, the Secretary of the Chief Commissioner, in his No. 258 dated 15th September 1853, stated the Chief Commissioner's concurrence in the views expressed in Judicial Commissioner's letter of 6th August to the Commissioner and Superintendent, Cis-Satlaj States. "The execution of a decree," he said, "is altogether a different matter."

On this reply being communicated to the Commissioner, he circulated the Judicial Commissioner's letter of 6th August, his own reply, and the Chief Commissioner's letter of 15th September to Judicial Commissioner, to the Deputy Commissioners subordinate to him (*Circular No.* 107, *dated* 27*th September* 1853,) as "shewing the course to be observed in the execution of Civil processes upon individuals resident in Foreign territory.

"Notices of Civil Suits instituted" he said (para. 2) "will be served through the Vakíl of the Chief in whose jurisdiction the defendant resides; and in the event of a decree issuing against him, the defendant's property situated in British jurisdiction will be answerable for the decree, and his person, if found within British jurisdiction, will be liable to arrest.

"But so long" (para. 3) "as he lives himself in Foreign jurisdiction, and has no property within British territory, the decree cannot be executed.

In a vernacular proceeding dated 30th September 1853, communicated to the Native States under his charge, the Commissioner appears to have made known to them the purport of this Circular, and of the correspondence which accompanied it.

In No. 659, dated 14th August 1856, to the Commissioner Cis-Satlaj States, the Chief Commissioner pointed out, that in this proceeding no reference was made to the order of Sir Frederick Currie in 1848, and those of the Board of Administration in 1849, and that if, as alleged, those orders had never been communicated to the Native States, a grave omission had occurred. He requested the Commissioner, if he found that they had not been communicated, or if he saw any room for doubt on the subject, "to circulate among the Chiefs a proceeding in which the precise orders of 1849, and the conditions thereto pertaining should be embodied."

"It will be understood" he observed (para. 3), "that according to the terms which are now to be in force, a subject

of a Native State will be amenable to our Courts *only* when the cause of action arose in our territory, or when he may be residing or possessed of property within our jurisdiction; and process can only issue upon a decree previously obtained when the defendant's person or property may be within our limits. The same rule, *mutatis mutandis*, will apply to British subjects sued before the Courts or authorities of Native States. Again, in respect of reciprocity, Pattialah subjects may sue British subjects in our Courts, and British subjects may sue subjects of Native States in their Courts, and the existence of some such Courts, more or less worthy of the name, is to be presumed and expected. Our Courts will always be careful to issue notices to the defendant, but the notices on subjects of Native States should be served through the Vakils, and as you propose in your 3rd para, they should be instructed to obtain the endorsement of the addressee in token of the service having been actually effected. It is obvious that all practicable means for avoiding *ex parte* decisions should be adopted."

In para. 4 instructions were given to the Commissioner as to the course he should pursue where British subjects failed to obtain redress from Native States against the subjects of those States.

Extract from a letter No. 104, dated 16th June 1858, from the Chief Commissioner of the Punjab, to the Secretary to Government with the Governor General.

8th.—The eighth request refers to the rejection in our Civil Courts of claims against the subjects of the Chiefs. The Punjab Code sets forth that suits may be heard in our Courts against subjects of Foreign States, provided that the cause of action arose within our territory or that the defendant possesses property within our jurisdiction. The Commissioner states that this rule has not always worked well owing to the opposition of the Foreign States; but that on the whole it ought to be maintained. The Chief Commissioner concurs in thinking that no change is necessary, and indeed it does not appear that the Chiefs themselves lay much stress upon this request.

Extract from a letter No. 3047, dated 25th May 1859, from Secretary to the Government of India, to the Secretary to the Government of the Punjab and its Dependencies.

8. His Lordship in Council concurs with the late Chief Commissioner in thinking that no change is necessary in regard to claims against the subjects of the Chiefs being heard in our own Civil Courts, as proposed in the 8th and final request.

NOTE.—The rules thus sanctioned for the Native States Cis-Satlaj, were extended to those situated Trans-Satlaj in 1860, by order of the Lieutenant Governor, conveyed in the following letter.

Extract paras. 1 and 2 of letter No. 177, dated 28th March 1860, from Secretary to Government of the Punjab to the Officiating Judicial Commissioner of the Punjab.

I am directed to reply as follows, to your letter No. 129, dated 19th instant.

2. The Honorable the Lieutenant Governor is decidedly of opinion that processes of our Civil Courts should be served in the same manner in the territory of the Kapurthalla Rajah as in other Independent territory within the Punjab and its dependencies. The rules, therefore, prescribed by the Supreme Government for observance in the Cis-Satlaj States, should certainly be carried out in Sovereign States in the Trans-Satlaj States.

NOTE.—These rules have never been repealed, but since the introduction of the Civil Procedure Code service effected under them would not be recognized as sufficient, the procedure in such cases being that prescribed in Sections 60 and 66.

XVII.—INTRODUCTION OF STAMPS IN CIVIL SUITS, AND ESTABLISHMENT OF OFFICES OF REGISTRY IN THE CIS AND TRANS-SATLAJ STATES.

Extract paras. 3 and 4 of letter No. 1310, dated 15th June 1847, from Secretary to Government of India, to Commissioner and Superintendent Cis-Satlaj States.

3. The Right Honorable the Governor General is pleased to order the introduction of stamps in Civil Suits, and to direct that the duties be collected according to the following rules :—

[The Rules are omitted, as, with one unimportant exception, they are the same as the printed Rules for the Punjab and Cis-Satlaj Provinces, appended to the Rules for the Administration of Civil Justice—*ante, pp.* 143—145.]

4. You will direct the officers in charge of Districts to submit their Indents to the Superintendent of Stamps immediately, and in the meanwhile to obtain the requisite supply from the neighbouring Districts of the North-Western Provinces. The collection of 5 per cent on the value of Civil Suits is abolished, and you are requested to state by what authority it was levied, and also to render an account from all the Districts shewing the amount realized each month since March 1846. The Right Honorable the Governor General is also pleased to order the establishment of offices of Registry in each Deputy Commissionership, to be placed under the charge of the Covenanted Assistants, who will draw the usual fees prescribed by the Regulations.

Copy of No. 2031, dated 27th August 1847, from the Secretary to the Government of India, with the Governor General, to the Commissioner and Superintendent Trans-Satlaj States.

I am directed to inform you that the Right Honorable the Governor General has been pleased to determine that offices of Registry shall be established in the office of each Deputy Commissioner in the Trans-Satlaj States under the charge of the Covenanted Assistants, who will draw the usual fees prescribed by the Regulations. You will be pleased to carry this order into effect accordingly.

Copy of letter, in the Revenue Department, No. 16 dated 14th May 1849, from the Secretary to the Board of Administration to the Secretary to the Government of India, Foreign Department.

I am directed by the Board of Administration to submit, for the consideration of the Right Honorable the Governor General, a recommendation that Stamp paper of the same values and under the same Regulations as obtain in the Provinces, be made demandable throughout the Punjab.

2. The Board in the first instance propose to limit the application of the Stamp Laws to the proceedings noted in the margin,* all of which they propose should be written on paper of eight annas value in Revenue, Criminal and Miscellaneous cases. Gradually a more complete application of the Stamp Laws may be made, as experience permits the Board to act on the authority they now solicit.

1. Petition of Plaint.
2. Copy of any order.
3. Power of Attorney,—(Mukhtiyarnamah).
4. Deed of Release,—(Razinamah).

3. For the Civil Courts the Board would suggest that the Stamp duties laid down in the printed Rules of Procedure for the Cis and Trans-Satlaj States be demanded in the Punjab also.

4. The Board recommend this measure not only as a means of raising revenue with no hardship to the people in general, but in the hope of restraining frivolous litigation,† by which much inconvenience and suffering is caused to the public, and the time of the local officers wasted.

Copy of letter No. 782, dated 23rd May 1849, from the Secretary to the Government of India, with the Governor General, Foreign Department, to the Board of Administration for the affairs of the Punjab.

I have the honor to acknowledge the receipt of your Secretary's letter dated 14th instant, No. 16, and in reply to intimate that the Governor General approves of your recommendation that stamp paper of the same values, and under the same regulations, as obtain in the provinces, be made demandable throughout the Punjab, but with the limitation mentioned by you.

2. His Lordship has directed that for the Civil Courts the stamp duties laid down in the printed Rules of Procedure for the Cis and Trans-Satlaj States, be demandable in the Punjab also.

NOTE.—The Board appear to have understood this letter, not only as introducing the Stamp Laws, under certain limitations suggested by them, but also as empowering them to extend them by degrees, as they might consider their more completed application desirable, an authority they had asked for in the 2nd para. of their letter. They accordingly issued the following instructions in their Revenue Circular No. 289, dated 29th June 1849, addressed to all officers under them (paras. 1 to 9.).

† The word is '*legislation*' in the draft approved by the Board, but this was evidently a slip of the pen for '*litigation*,' which was the word used in an earlier draft.

Extract paras. 1 to 9 of a Circular No. 289, dated 29th June 1849, to all Officers under the Board.

Contains instructions for the management of the Stamp Department.

I am directed by the Board of Administration to inform you that Government have sanctioned the introduction of Stamp paper into these territories under certain limitations, and have given a discretionary power to the Board to enforce, gradually, such of the provisions of the Stamp Regulations, as they may consider applicable to a new country. They request your attention to the following instructions :—

2nd.—First, as regards Civil suits, whether original or in appeal, the Civil Courts will be guided by the directions regarding the use of stamp paper, which form part of the rules of Civil procedure published under the authority of the Governor General in 1847. Printed copies of these have been furnished to all the Commissioners and Superintendents under the Board, and through them to the District Officers.

3rd.—These rules do not provide for documentary stamps. Hereafter the Board propose to introduce a system of Registry throughout the Punjab, and will then issue a schedule of documentary stamps. For the present they think it sufficient to order that no bond, deed, or other document, in any Civil or Revenue Court be received in evidence, unless written upon or filed with stamp paper of eight annas value.

4th.—The fact that any such deed is on plain paper shall in no degree invalidate it, but, to enable the holder to present it in Court, he must file with it stamp paper to the amount above named.

5th.—In Summary Suits tried in the Revenue Courts the petition of plaint, whatever be the amount claimed, should be received on stamp paper of eight annas value. It was for a long time the custom in the North Western Provinces to demand, for the petition of plaint in Summary Suits, half the stamp required for a claim of the same amount in the Civil Court; but under the general authority given by Section 7, Regulation VIII of 1831, the Sadr Board of Revenue, and, latterly, His Honor the Lieutenant Governor, have been pleased to direct that petitions of plaint in Summary Suits, for whatever amount, may be written on paper of eight annas value. —*Directions to Collectors, Section IV, para.* 269.

6th.—The advantages of this rule are obvious. The landlord on the one hand should be permitted to enforce his claims for rent by a process as cheap and as summary as that resorted to by Government in the realization of revenue; and on the other hand no unnecessary obstacles of expense or delay should be thrown in the way of the tenant claiming protection against his landlord. If the asamis or tenants of a large village were to combine, they might compel the landlord under the old rule of stamps to advance a large sum before he could prefer a suit against them, and this, perhaps, at a time when he himself is pressed for the Government demand. The Board have therefore thought it advisable to make the process in Summary Suits as cheap as the law permits.

7th.—In other cases cognizable by the Revenue authorities, and for other papers besides the petition of plaint in Summary Suits, the Board direct that stamps be required according to the schedule noted below.

Petition, ...	8	annas.
Copy of any order, ...	8	„
Power of Attorney or Mukhtiyarnamah,... ...	4	„
Deed of release (Razinamah), ...	8	„

8th.—And in the Criminal Courts, and in all cases not provided for in the above rules, this schedule shall be applicable.

9th.—In carrying out these instructions, the Board request that you will direct your subordinates to pass an order regarding the costs in all cases heard before them; whether the question at issue is settled by mutual agreement, arbitration, or by order, it is highly desirable that the costs should be charged to one, or apportioned between both parties according to circumstances, and an order regarding costs should form part of the decision in every case.

They subsequently issued further rules in various Circulars from 1849 to 1851, slightly modifying those contained in their Circular No. 289 of 1849. It is unnecessary now to consider how far the rules made by them were in accordance with the terms of the Goverment letter on the subject, as all previous rules relating to stamps have been superseded by Act XXXVI of 1860, and the subsequent Acts which have taken its place Until the passing of Act XXXVI of 1860, no documentary stamps were required in the Punjab, though, if not written on an eight anna stamp, stamp paper to that amount had to be filed with them when tendered in evidence.

XVIII.—LIST OF RULES OMITTED AS BEING SUPERSEDED BY THE CODE OF CIVIL PROCEDURE, OR HAVING OTHERWISE CEASED TO BE IN FORCE.

Government of India No. 209, dated 13th February 1852, to Board of Administration, authorizing the Board to order the return of Court fees in Civil Cases at its discretion.—*This has long been obsolete.*

Government of India No. 1131, dated 16th April 1852, approving of Board's Judicial Circular No. 37 of 1851, on the subject of discouraging the employment of Vakils.—*This hardly amounted to a rule, law, or regulation, and is obsolete, the Pleaders' and Mukhtars' Act of* 1865 *having been introduced.*

Government of India No. 5559, dated 7th November 1856, as to registration by Cantonment Joint Magistrates.—*Superseded by Act XXII of* 1864 *and Act XX of* 1866.—*Vide Judicial Commissioner's Circular No.* 91 *of* 1856.

Punjab Government No. 281, dated 7th April 1859, to Judicial Commissioner, approving of the reprint of Circular No. 27 of 1855, on the subject of sepoy's suits, and directing its circulation to Commanding Officers.—*This has been superseded by the introduction of the Civil Procedure Code, and the repeal of Regulation XV of* 1816 *and Act XV of* 1845, *the privileges conferred by which had been extended to the troops under the Punjab Administration by the Circular of* 1855.

Government of India No. 2115, dated 20th June 1860, and No. 3954, dated 18th July 1861, sanctioning the continuance to 30th April 1861, and to 30th April 1862, respectively, of the new talabana (fees for service of process) system established under para. 8 of Government No. 585, dated 20th January 1859.—*Expired.—The subject is now provided for by the extension of Act XI of* 1863 *to the Punjab.*

Punjab Government No. 375A, dated 29th May 1861, sanctioning the establishment of Small Cause Courts, the rules varying in some respects from Act XLII of 1860. Also Gazette Notification No. 370, dated 28th May 1861, establishing the Courts, subject to the sanction of the Supreme Government.—*Superseded by the subsequent introduction of the Small Cause Court Acts without modification.*

Government of India No. 4868, dated 9th August 1859, to Punjab Government.—Liability of Government for the debts of rebels whose jagirs have been confiscated. Punjab Government Nos. 1000 and 1001, dated 1st September 1859, to Judicial Commissioner, containing instructions as to the application of the principle laid down by the Government of India, (*Judicial Commissioner's Book Circular No. LVIII—*112, *dated 9th September* 1859) and Government of India No. 271, dated 28th December 1860, to Punjab Government, limiting the benefit of the concession to loyal creditors (*Judicial Commissioner's Book Circular No. V—*7, *dated 12th January* 1861).

These rules are included in Mr. Cust's list of rules having the force of law under the Indian Councils' Act. But in the letter No. 271 of 1860, the Governor General refers to the general rule laid down in the letter No. 4868 of 1859, as a concession which could be claimed only as a favor, and which should be withheld where favor is not due; and in the case of *Salig Ram and Devi Singh,* v. *the Secretary of State for India* (*Punjab Record for* 1867, *Civil Judgments,* p. 20), the

Chief Court held that the Circular No. 112 of 1859, did not give the creditors a legal title, nor did it confer jurisdiction upon the Civil Courts, and evidently leant to the opinion that it had not acquired the character of law by the operation of the Indian Councils' Act. The case is now under appeal to the Judicial Committee of Her Majesty's Privy Council. Even if these rules have acquired the force of law, the circumstances to which they had reference have so long ceased to exist, that no fresh claims under them could now be brought.

CHAPTER IV.

REVENUE.

Introduction of the Revenue system of the North West Provinces.

In the despatch constituting the Board of Administration for the affairs of the Punjab, (*No.* 418, *dated* 31*st March* 1849, *para.* 12, *ante p.* 16,) the Governor General, instead of introducing the Revenue Regulations themselves, referred to the "Four Circulars" of the Revenue Board, North West Provinces, and the pamphlets published under the orders of the Lieutenant Governor, as forming an admirable body of instructions adapted to any Province where the village system obtains,* and directed that they should be largely circulated amongst the officers under the Board. The pamphlets alluded to appear to have been the "Directions for Settlement Officers" and the "Directions for Collectors" (in two parts), which had been published in the years 1844 to 1848. These were collected into one volume, and re-published with additions and corrections under the title of "Directions for Revenue Officers," on the 1st November 1849, under the authority of the Lieutenant Governor, North West Provinces. The work, in this form, was generally circulated in the Punjab, and was among the text-books prescribed for examination of Assistant and Extra Assistants, in the rules sanctioned by the Governor General in Council in letter No. 1514, dated 1st April 1854, to the Chief Commissioner of the Punjab. The additions being distinguished, in the edition of 1849, by rectangular brackets, and the alterations, which are few in number, by curved brackets, the passages which have not received the approval of the Governor General in his despatch, No. 418 of 1849, can be separated without difficulty. The "Four Circulars" of the Board of Revenue seem never to have been generally circulated in the Punjab; but as the subjects with which they dealt were the same as those treated of in the "Directions for Settlement Officers" and the "Directions for Collectors," and as these works, which were brought up to a later date, were intended as a substitute for a new

* In para. 7 the maintenance of village co-parcenaries in all their integrity had been prescribed. Both this, and the reference to the village system in para. 12, show that it was understood to prevail generally throughout the Punjab.

edition of the "Four Circulars," the order of the Governor General was substantially carried out by the circulation of the "Directions," and by their being referred to as a guide when instructions were required upon any revenue subjects.

Equivalent to an introduction of the spirit of the Regulations.

The adoption of these treatises as a Revenue Code for the Punjab seems almost to have given them the force of law; but as many of the directions contained in them are rather of an executive character than of the nature of law, and might apparently be altered by Government without an act of legislation, it would probably be more correct to hold that the effect of the order of the Governor General was to introduce into the Punjab the spirit of the Revenue Regulations applicable to the North Western Provinces, so far as this was to be found embodied in the "Four Circulars" and in the "Directions."

Certain Regulations more expressly introduced.

In para. 59 of the despatch, the mode of determining boundary questions in the North Western Provinces, which is described in Section II of "Directions for Settlement Officers", and is one of the duties entrusted to Collectors under Regulations VII of 1822 and IX of 1833, and Act I of 1847, was more explicitly prescribed for guidance in the Punjab; and in regard to the powers of Revenue Officers, the Regulations on the subject were referred to in paras. 18 and 21.

In a few cases Regulations relating to subjects connected with the Revenue Administration were afterwards introduced in more direct terms, and it was also found necessary from time to time to make rules relating to revenue matters, where the instructions contained in the "Directions" proved insufficient to meet the wants of the Punjab. There are but few instances where the subject had been fully dealt with in the "Directions," in which other rules were made in supersession of those there given.

Judicial decisions of Settlement Officers.

One of these is to be found in the rule of the 1st September 1849, that the judicial decisions of Settlement Officers should not be liable to be contested in the Civil Courts,* an appeal to the superior Revenue Officers being substituted; and another was the withdrawal from the jurisdiction of the Civil Courts of the class of suits which, if instituted within one year on the Revenue side, would have been cognizable by the Collector as Summary Suits. This

Certain Civil Suits transferred to Revenue Courts.

* *Ante*, p. 41.

was effected in 1854 by Section I of the first part of the Punjab Civil Code, and in Secretary to Chief Commissioner's No. 832, dated 2nd October 1855, to the Financial Commissioner, (*printed at p.* 286, *vol. I of Financial Commissioner's Circulars,*) it was laid down that such suits, when instituted after one year from the time when the cause of action arose, should be tried on the Revenue side of the Courts, the same procedure being followed as in the trial of Civil Suits,* and the transfer of jurisdiction was finally recognized by the Lieutenant Governor in Punjab Government letter No. 1193, dated 21st August 1860, to Financial Commissioner, † which formed the authority for Financial Commissioner's Book Circular No. XLVI—95 of 1860. This, however, was little more than a change in the classification of business, as, except that the final appellate jurisdiction was exercised by the Financial Commissioner, and not by the Judicial Commissioner,‡ the cases were tried in the first instance, and in appeal, by the same officers, and under the same procedure, as if they had been instituted in the Civil Courts.

Subjects embraced in this Chapter.

In noticing the rules made from time to time which appear to have acquired the force of law under Section 25 of the Indian Councils' Act, 1861, it will be most convenient to arrange them under the following heads:—

(1.) Settlement of Land Revenue.
(2.) Compensation for Land taken up for Public Purposes.
(3.) Alluvion and Diluvion.
(4.) Collection of the Land Revenue.
(5.) Judicial Functions of Revenue Officers.
(6.) Transfers of Holdings, Sub-leases and Partitions.
(7.) Assignments of Land Revenue, and Succession to such Assignments, when Hereditary.

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* See also Secretary to Chief Commissioner's No. 619, dated 26th October 1855, to the Judicial Commissioner (*p.* 571 *of Judicial Commissioner's Circulars issued from* 1853 *to* 1856.)

† *Ante, p.* 170.

‡ This change does not seem to have been recognized by any authority which would give it legal validity under Section 25 of the Indian Councils' Act. As regards cases tried in the first instance by Settlement Officers, the order of the 1st September 1849 seems sufficient to support the final appellate jurisdiction of the Financial Commissioner, and no decision or order of the Financial Commissioner before the 10th April 1865 is now liable to be questioned solely on the ground of a doubt as to his authority to pass the decision or order—Section 24 of Act XIX of 1865.—*The Punjab Courts' Act,* 1865.

(8.) Miscellaneous items of Land Revenue.
(9.) Inland Customs, Salt, and Saltpetre.
(10.) Abkarí.
(11.) Opium.

Other subjects, such as Canal and Forest rules, which have some relation with revenue, will be taken up in the following Chapter.

I.—Settlement of Land Revenue.

This subject having been treated of in the Circular of the Board of Revenue North West Provinces 'On Settlements,' dated 9th April 1839, which is the first of the 'Four Circulars,' and in 'Directions for Settlement Officers,' the additional rules issued with reference to it are not numerous. The extension of settlement operations to all villages in the Cis-Satlaj States in which the British Government possessed any share, was ordered by Government of India letter No. 554, dated 26th April 1849, to the Board of Administration. By Government of India No. 861, dated 4th June 1849, the professional survey and demarcation of village boundaries was extended to all estates in the Cis-Satlaj States in which the British Government exercised jurisdiction, or which, though under the jurisdiction of one of the Protected States, would lapse to it on the demise of the Chiefs without heirs, and also to estates in which two or more of the Protected States had joint police jurisdiction.

Rules relating to Settlements, in addition to those contained in 'Directions for Settlement Officers.'

In 1860 instructions were issued in regard to the assessment of lapsed or resumed Revenue free-holdings, in Financial Commissioner's Book Circulars No. XII—18, dated 20th March 1860, approved of by the Lieutenant Governor in letter No. 345, dated 10th March 1860, No. XXXIX—76, dated 23rd August 1860, circulating letter No. 1063, dated 1st August, from Secretary to Government Punjab, and No. LIV—110, dated 7th November 1860, the issue of which was sanctioned by the Lieutenant Governor in Punjab Government No. 1687 of the same date.

Assessment of lapsed or resumed revenue holdings.

With reference to the case of lands maintained revenue-free, for the life of an individual, to provide for the support of a temple, mosque, dharmsalah, takiyah, or khangah, a special

Revenue-free holdings granted for the support of religious edifices.

rule was laid down in Punjab Government letter No. 917, dated 4th July 1860, to the Financial Commissioner, the paragraphs of which containing the instructions of Government upon the subject were circulated with Financial Commissioner's Book Circular No. XXXII—64, dated 20th July 1860.

Settlement of garden lands in the Trans-Satlaj States.

In para. 4 of Government of India No. 2387, dated 8th October 1847, to the Commissioner and Superintendent Trans-Satlaj States, rules were prescribed for the disposal and assessment of gardens, according as there were or were not proprietors in possession.

Reduction of assessment.

In the same year the course to be followed in reducing assessment of land revenue, where reduction was found necessary, was prescribed by Financial Commissioner's Book Circular No. XLV—93, dated the 5th October 1860, which was approved in Punjab Government letter No. 1606, dated 22nd October 1860.

Assessment of lands improved by private irrigation works.

In 1861, by Notification No. 516, dated 3rd April, published at page 158 of the *Punjab Government Gazette* for that year, the Lieutenant Governor directed the special attention of Revenue officers to a rule made by the Board of Administration in their Revenue Circular No. 41 of 1850, for the assessment of lands irrigated from new wells, old wells restored, or other works constructed at the expense of private individuals, and ordered the terms prescribed to be made generally known through the Tahsildars.

II.—Compensation for Land taken up for Public Purposes.

Jagír lands in the Cis-Satlaj States.

The right of jagírdars in the Cis-Satlaj States to compensation when the jagír lands were appropriated for public purposes was acknowledged, and the mode in which the compensation payable to them and to the occupants of the lands should be calculated was prescribed in Government of India letter No. 2113, dated 2nd July 1851, to the Board of Administration. In a subsequent letter to the Board, No. 2737 dated 10th August 1852, the Governor General in Council laid down a general rule as to the mode of compensating muáfidars or proprietors required to give up land for public purposes. A long series of Circulars on this subject was issued by the Board of Admi-

Compensation to proprietors and revenue-free holders of lands appropriated.

nistration and the Financial Commissioner, and ultimately a Circular consolidating them was submitted by the Officiating Financial Commissioner to the Lieutenant Governor with his No. 902, dated 13th October 1860, and received the sanction of the Lieutenant Governor in letter No. 1975, dated 22nd December 1860, to the Financial Commissioner. This Circular was issued by the Financial Commissioner as No. III—14, dated 21st January 1861. Act VI of 1857, which was applicable to all "the territories in the possession and under the Government of the East India Company," is one of the authorities quoted in the margin of this Circular, but some of its provisions were opposed to the Act; and, in 1863, the Local Government extended the Act to the Punjab, and the procedure contained in it was directed to be strictly followed, in supersession of such portions of the Circular as were opposed to it. So far as the rules made in 1860 had the force of law under Section 25 of the Indian Councils' Act, they might perhaps be held to have superseded any inconsistent provisions in the Act of 1857, and in that case the order of the Local Government in 1863 would not be sufficient to repeal them; but as Act VI of 1857 has been repealed by Act X of 1870, which extends to the whole of British India, and came into force on the 1st day of June 1870, no conflict between the rules and the Act can now arise. It seems, however, desirable that the rules should formally be repealed, as the Local Government having now power to make Rules under Act X of 1870, there is no longer any reason why the old rules should be retained.

Question whether the rules have been repealed.

They have been rendered unnecessary by Act X of 1870.

Rules to be observed in taking up land for cuts from rivers and canals had been issued by the Board of Administration in their Revenue Circular No. 48, dated 6th August 1850. Further rules upon this subject were issued in Financial Commissioner's Circular No. 92 of 1859, under the authority of the Lieutenant Governor, but these were cancelled by Punjab Government No. 193 dated 30th January 1860, and the old rules were ordered to be observed. *(Financial Commissioner's Book Circular No. VIII—13, dated 6th February* 1860.*)* The rules of 1850 were briefly stated in Financial Commissioner's Book Circular No. III of 1861, and the remarks made with reference to that Circular apply to these rules.

Rules for taking up land for cuts from rivers and canals.

III.—Alluvion and Diluvion.

Rules consolidated in Circular XLII of 1860.

Instructions had been given on this subject in several Circulars issued by the Board of Administration, and in one issued by the Financial Commissioner in 1853. In 1860 the Officiating Financial Commissioner consolidated these in his Circular No. XLII—81, dated 7th September 1860, which was approved by the Lieutenant Governor in letter No. 1243, dated 30th August 1860.

Effect of alluvion and diluvion upon jurisdiction.

The question as to the effect of alluvion and diluvion upon the boundary of neighbouring States belongs rather to International Law than to internal legislation, but as it has frequently to be considered by Punjab officers owing to the intermixture of British and Native jurisdictions, the rules bearing upon the subject may conveniently be noticed here. These are contained in Government of India letter No. 3631, dated 24th August 1860, to the Punjab Government, and a question of jurisdiction was decided in accordance with them by the Chief Court in the case of *Yusaf* v. *Sirdar Dewa Singh* (*Punjab Record for* 1870, *Civil Judgments, p.* 45.)

IV.—Collection of the Land Revenue.

Rules consolidated in Circular XXXVI of 1860.

The processes to be resorted to in case of default are described in Financial Commissioner's Book Circular No. XXXVI—70, dated 16th August 1860, which was approved by the Lieutenant Governor in Punjab Government letter No. 1131, dated 13th August 1860, to the Financial Commissioner. It is probable that this Circular made no change in the existing law, but it is necessary to include it, as the rules contained in it would now have the force of law if they varied in any respect from the Regulations.

V.—Judicial Functions of Revenue Officers.

Summary Suits. Jurisdiction of Revenue officers.

As regards the recovery of rent by land-owners responsible for the Government Revenue from their tenants, the Summary Suit jurisdiction of Collectors in the North Western Provinces formed part of the Revenue law adopted from the North Western Provinces in 1849.

Regular Revenue Suits.

And, as already noticed, the jurisdiction in suits for the rent, revenue, or produce of land, after the lapse of the period during which these suits could be entertained as Summary Suits, was transferred to the Revenue Courts by the Punjab Civil Code, and the order of the Chief Commissioner communicated by Financial Commissioner's Circular No. 89 of 1855; and the jurisdiction in other suits regarding land, by the order of the Chief Commissioner contained in Judicial Commissioner's Circular No. 95 of 1855. This transfer of jurisdiction was recognized by the Lieutenant Governor in 1860, and the classes of cases to be heard on the Revenue side, as Regular or Summary Suits, were defined, under his authority, in Financial Commissioner's Book Circular No. XLVI—95 of 1860,* and in the foot-notes added to that Circular in 1861. But by the passing of Act XIX, 1865, the Summary Suit jurisdiction was taken away, and the jurisdiction in all suits regarding land, or the rent, revenue, or produce of land, was transferred back to the Civil side of the Courts; the Lieutenant Governor being empowered, in districts under Settlement, to order such suits to be heard on the Revenue, and not on the Civil side of the Courts.

Change effected by the Punjab Courts' Act.

Correction of Settlement Records.

After all suits relating to land had been transferred to the Revenue side of the Courts, the power of Revenue Officers under Appendix XXV of the 'Directions for Collectors,' to complete and correct the records of right in land made at the time of Settlement, was frequently exercised as one of the consequences of the Court's decision in such cases, and it being thought that such alterations were made with too little caution, the Financial Commissioner directed, with the Chief Commissioner's concurrence, in his Circular No. XLIII—89 of 1858, that no cases involving such alteration should be entertained without a preliminary enquiry, and the authorization of the Commissioner. Objections to the correctness of the record had already been ordered, in Clause 6 of the Section of the Punjab Civil Code on Evidence, to be preferred in the Commissioner's Court. In letter No. 927, dated 15th August 1859, from Secretary to Government Punjab, to the Financial Commissioner, instructions were given that in cases where the nature of the rights of

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Ante p. 170.

hereditary cultivators had not been specified in the Settlement Record, the record should be treated as defective, and the case decided according to the evidence procurable, the result being recorded for future guidance. In No. 988, dated 14th July 1860, further instructions were given to the Financial Commissioner as to the circumstances under which the record might be modified, the authority required, and the term within which the suit should be brought. Under this authority the Financial Commissioner issued his Book Circular No. XXXIII—65 of 1860, but after the transfer of jurisdiction to the Civil Courts by Act XIX of 1863, and the introduction of the Civil Procedure Code, the Chief Court held that a preliminary enquiry, and the previous sanction of the Commissioner, were not necessary to give a Civil Court jurisdiction to entertain any suit, and that the Civil Court could not order any change in the record as a consequence of its decision, it resting with the revenue authorities to make such changes. The Circular was afterwards repealed by 'the Punjab Tenancy Act, 1868,' *(No. XXVIII of* 1868,) and this repeal may be taken as including the letters under the authority of which it was issued.

VI.—Transfers of Holdings, Sub-leases and Partitions.

Registers of lands paying revenue.

One of the duties of Revenue officers, as described in the 'Directions,' is the maintenance of an annual Malguzari Register, all changes in the disposition of landed property during the year being shown in the following year's Register. Among the changes which are shown in this Register, are such as the division of estates, and transfers of holdings. In connection with this Register, the question of the propriety of recognizing sub-leases by proprietors who had engaged for the Government revenue to persons unconnected with the village community, came before the Board of Administration in 1850, and they, considering the practice to be one fraught with evil consequences, requested the permission of the Governor General to prohibit such sub-leases, and this permission was granted in Government of India letter No. 1414, dated 30th July 1850, to the Board. The prohibition was accordingly promulgated in the Board's Revenue Circular No. 49, dated 9th August 1850, with which copies of the correspondence were circulated.

Prohibition of Sub-leases of villages.

The subject of mutation of names in the Registers kept up in the Revenue Department was dealt with in 1860 by Financial Commissioner's Book Circular No. XLVII—96, dated 13th October 1860, the issue of which was authorized by Punjab Government letter No. 1466, dated 4th October.

Consolidated Circular No. XLVII of 1860 as to mutation of names.

In regard to partitions, instructions were issued in Financial Commissioner's Book Circular XLVIII—97, dated 20th October 1860, sanctioned by the Lieutenant Governor in letter No. 1580, dated 19th October. By these instructions the manner of effecting an imperfect partition was laid down, and complete partitions of villages, involving a severance of responsibility, were prohibited.

Consolidated Circular No. XLVIII of 1860 on the subject of partitions.

VII.—Assignments of Land Revenue.

Instructions for the investigation of claims to hold land free of demand for Government Revenue were given, as regards the Trans-Satlaj States, in Government of India letter No. 78, dated 23rd February 1847, to the Commissioner Trans-Satlaj States, and, as regards the Punjab, in the despatch constituting the Board of Administration, No. 418, dated 31st March 1849, paras. 39 to 56, *(ante pp. 17 to 20)*; and in Government of India letter No. 1419, dated 24th March 1853, to the Chief Commissioner, five rules were laid down as to the authority by which future cases should be disposed of, according to the nature of the proposal made by the investigating officer.

Investigation of claims to hold land free of revenue demand.

In all cases, sanads or deeds of grant held from previous Governments were to be recalled, and fresh grants from the British Government to be given where the claim was admitted. In these the terms and conditions of the grant were to be specified. In Government of India letter No. 1167, dated 15th April 1851, a rule was added as to the manner in which hereditary grants should be described in the sanads, and in No. 2990, dated 27th August 1852, a prohibition of the alienation of perpetual grants was ordered to be inserted. Further instructions as to the grant and form of sanads were issued in Financial Commissioner's Book Circular No. LVII—115, dated 15th November 1860, sanctioned by the Lieutenant Governor in letter No. 1699, dated 8th

Sanads.

November 1860; but these instructions being purely of an administrative character, need hardly be included in the present collection.

Consolidated Circular as to Jagírdars and Muáfidars, No. LIII of 1860.

A very large number of Circulars having been issued relating to Jagírdars and Muáfidars, their rights, liabilities, and the incidents of their tenure, these were consolidated in Financial Commissioner's Circular No. LIII—109, dated 6th November 1860, to which the sanction of the Lieutenant Governor was given in letter No. 797, dated 15th May 1861, and which, though bearing date in 1860, was not published till 1861, after the receipt of sanction.

In a number of instances, however, rules which had received the sanction of the Governor General or of the Lieutenant Governor are merely mentioned in this Circular, so that it is necessary to refer to the previous orders in which they are set forth at length. Those relating to investigations have been noticed above.

Settlement of Revenue free lands.

The next subject discussed in the Circular is that of Settlement, including commutation for service. In the Board of Administration's Revenue Circular No. 13 of 1852, (*p.* 161 *of Board's Revenue Circulars*) they directed that the instructions contained in para. 43 of Government of India No. 418 of 1849, (*ante p.* 18) should be carried out by assessing the revenue demand payable for all jagír land, so as to prevent the proprietors or occupiers of the soil from being rack-rented by the assignees of the Government revenue. Before this order was carried out, many jagírs had been reported by the Board for the orders of Government, and the value, not being accurately known, had been assumed at the sum entered in the record of the original grant. On settlement taking place, the value was generally found to be less than that reported to Government, owing to the British revenue demand being lighter than that of the Sikhs; and where a portion of the jagír had been resumed, and a portion, stated to be of a certain value, released, the question arose whether the jagírdar was entitled to a jagír of the full value mentioned in the Government order, or only to a jagír bearing the same proportion to that value as was borne by the actual to the assumed value.

Interpretation of orders releasing a jagír stated to be of a certain value.

This question being referred by the Chief Commissioner for the decision of Government, the Governor General

in Council decided that the latter was the interpretation to be put upon the order releasing the jagír (*letter No.* 3095, *dated* 15*th July* 1853, *to the Chief Commissioner*). This ruling was published by Financial Commissioner's Circular No. 33, dated 1st August 1853, (*p.* 44 *of* 1*st volume of Financial Commissioner's Circulars*). The same principle was applied where a sum fixed in a certain proportion to the value of a jagír was deducted at the time of settlement as commutation for service due to Government, and the value was afterwards altered by revision of settlement (*Government of India letter No.* 982, *dated* 15*th February* 1856, *to the Chief Commissioner, published in Financial Commissioner's Circular No.* 12, *dated* 12*th March* 1856, *at p.* 13 *of the* 2*nd vol. of Financial Commissioner's Circulars.*)

Commutation for service.

The payments made as commutation for service arose from the Protected Sikh Chiefs having been liable to certain demands for service, when required by the Political Agent for the maintenance of order in the Protected States, or when the British Government required their aid in time of war. On the assumption of the Police jurisdiction in their territories in 1846, it was determined to substitute a money demand for the service previously furnished by them, and the same principle was applied to the jagírdars formerly subjects of Lahore, who were brought under the British Government in 1845 and 1846, these jagírdars having previously been obliged to supply a fixed number of horse and foot to the Lahore armies. The rates originally adopted by Government for determining the amount of commutation were 16 Rupees per month for every horseman, and 6 rupees for every footman (*ante pp.* 32, 33); but, it being found that this assessment pressed very unequally, the rate of 2 annas per rupee of the revenue assessed upon the jagírdar's lands, when included in the Protected States, and 4 annas per rupee when included in the former Lahore territory, were substituted by Government of India No. 1407, dated 7th May 1852, to the Board of Administration.

Forfeiture of jagírs for capital crime.

Passing over the next subject discussed in Book Circular No. LIII of 1860, that of Registers and Mutation of Names, we come to the 4th subject—Forfeiture for Crime and Liability for Debt. In

Government of India No. 4170, dated 8th August 1856, to the Chief Commissioner, *(printed at p. 51 of the 2nd volume of Financial Commissioner's Circulars,—Circular No. 44, dated 8th August 1856)*, the rule was laid down that jagírs, or shares inheritable in jagírs, should be forfeited upon the commission of a capital crime by the person entitled. This rule was afterwards limited by para. 12 of Court of Directors' despatch No. 44, dated 18th August 1858, communicated to the Chief Commissioner by the Government of India, to the case in which the criminal was in actual possession of the jagír or share, *(p. 96 of 3rd vol. of Financial Commissioner's Circulars,—Circular No. XL—85 of 1858)*.

Liability for debts of predecessors in tenure.

By Government of India No. 109, dated 9th January 1857, to the Chief Commissioner, rules were laid down regarding the liability of heirs to jagírs in the Cis-Satlaj States for the debts of their predecessors. These rules were published in Financial Commissioner's Circular No. 8, dated 3rd February 1857, *(p. 135 of 2nd volume of Financial Commissioner's Circulars)*, with a direction that they should be observed in respect of all perpetual jagírs in the Punjab.

Muáfidars coming under the Amnesty of 1858.

By Government of India letter No. 216, dated 12th February 1859, cases of rebel muáfidars coming under the terms of the Amnesty, where their lands were held as matter of favor and not of right, or on a tenure implying the duty of actively assisting the Government, were directed to be reported for the orders of Government. This rule was made known by Financial Commissioner's Circular No. XLVII—7, dated 11th February 1859.

Pensions on lapse or resumption of Revenue-free holdings.

The 5th subject treated of in Book Circular No. LIII of 1860, is that of the pensions granted on the lapse or resumption of jagír or muáfi holdings. Instructions as to the mode of payment of such pensions were issued in the Board of Administration's Revenue Circular No. 7, dated 27th March 1851, *(at p. 100 of the Board's Revenue Circulars)* and these instructions were afterwards sanctioned by Government of India letter No. 2650, dated 25th June 1857, to the Chief Commissioner, printed at page 219 of the 2nd volume of Financial Commissioner's Circulars *(Circular No. 74, dated 22nd July 1857)*. Rules on the subject of pensions to widows of jagírdars were

laid down in Government of India No. 1109, dated 4th March 1853, to the Chief Commissioner (*printed at page* 8 *of the* 1*st volume of Financial Commissioner's Circulars—Circular No.* 7, *dated* 24*th March* 1853). Another rule as to the mode of calculating pensions granted on resumption of jagírs was issued in Financial Commissioner's Circular No. 7, dated 6th March 1854, and received the sanction of the Court of Directors' in para. 22 of their despatch No. 6, dated 6th March 1855. This sanction was communicated to the Chief Commissioner by the Government of India, and was published in Financial Commissioner's Circular No. 49, dated 26th May 1855 (*page* 222 *of* 1*st volume of Financial Commissioner's Circulars*).

Inheritance of grants for more than one life.

The 6th head of Book Circular LIII of 1860,—the assessment of lapses,—has already been noticed. The 7th head relates to the inheritance of grants for more than one life. On this subject the rules with regard to the Punjab were laid down in Government of India No. 2990, dated 27th August 1852, (already cited) and No. 4436, dated 25th November 1852, the latter of which was printed in the Board of Administration's Revenue Circular No. 54, dated 8th December 1852. Those with regard to the Cis-Satlaj States, and to Conquest Jagírs in the Trans-Satlaj States, are somewhat similar, but not quite the same.

Inheritance of Jagírs in the Cis-Satlaj States.

In the case of the Cis-Satlaj States, in the Government of India despatch No. 465 of 1846, directing that the estates of the Protected Chiefs, with certain exceptions, should be brought under direct British jurisdiction, instructions were given for the preparation of rules to regulate the succession to the estates on the death of the incumbents without lineal male heirs. Some time elapsed before any steps were taken to carry out this order, but, on the 31st December 1850, the Board of Administration reported on the subject, and in Government of India No. 461 dated 12th February 1851, to their address, rules were laid down regarding collateral succession to shares, and the grant of money pensions to widows and daughters of sharers, where the jagír was held by a body of men according to certain shares. No absolute rule, however, was established in regard to large estates, Government being of opinion that each case of this nature should be determined upon its own merits, as it arose,

particular regard being paid to the custom of the family. The cases in which such estates were held by large communities of sharers being very numerous, a special agency for the registration of the deaths of sharers was sanctioned by Government of India No. 2908, dated 17th September 1851. Some further rules were laid down in Government of India letters No. 908 dated 16th February 1853, No. 3974 dated 9th September 1853, No. 4532 dated 18th October 1854, and No. 5495 dated 29th December 1854, principally with reference to the pensions to be assigned to widows of sharers dying without male heirs entitled to the succession.

Kharar Chaudhris.

By Government No. 3601, dated 19th August 1853, the same rules were extended to certain chaudhris holding shares in jagír villages in the Kharar tahsíl, with the exception that the state of possession existing at the time was made the basis upon which collateral succession should be regulated, instead of the status of 1808-9, which had been that adopted in regard to shares in jagírs held by communities.

Chaharamis.

Certain jagírdars or societies of jagírdars had held villages, the revenue of which was divided equally between them and the Pattialah State. These jagirdars were known as Chaharamis, as their share amounted to one-fourth of the produce. Pattialah claiming jurisdiction over them, while they asserted their independence, an enquiry was ordered by Government letter No. 2352, dated 5th October 1847, to the Commissioner Cis-Satlaj States. This enquiry resulted in a number of these jagírdars being brought under British jurisdiction, and in the division of the jagír villages so as to allot whole villages to Pattialah and whole villages to the jagírdars, the final orders being passed in Government of India No. 3799, dated 26th October 1855, to the Chief Commissioner. In preparing the registers to regulate successions, the status of 1852, the year in which the enquiry was entered upon by the Settlement Officer, was in the first instance adopted, but by Punjab Government No. 1021, dated 24th July 1860, the status of 1808-9 was afterwards substituted, as in the case of the other Cis-Satlaj jagírdars for whom a specific rule had been laid down by Government.

Succession to large jagír estates, Cis-Satlaj.

As regards the large estates, though no specific rule was laid down by Government, the status of 1808-9 has almost invariably been referred to as governing claims of collaterals, in accordance with precedents which had grown up before 1846,—the custom of the family being referred to only to determine whether the estate should descend integrally, or be divided among the heirs, either in equal or in unequal shares, what provision should be made for widows, and other points of like nature. The Punjab Government, however, in No. 766, dated 23rd June 1860, to the Financial Commissioner, has laid down the rules that successions to such estates should be settled by order of the Commissioner, and that legitimate issue should always succeed in perference to illegitimate children.

Succession to Conquest Jagírs, Trans-Satlaj States.

As regards jagírs acquired by conquest in the Hoshiarpur district in the Trans-Satlaj Division, rules for determining the provision to be made, on lapse, for widows and unmarried daughters of the deceased jagírdar, were sanctioned in Government of India No. 1993, dated 1st May 1857, to the Chief Commissioner. In 1860 the Commissioner of the Trans-Satlaj Division proposed introducing a system of registry for the purpose of regulating the succession to conquest jagírs there, similar to that which had been established in the Cis-Satlaj States; but as a number of jagírs had not been released in perpetuity until 1856, having been released for life only at the original investigation, he found it necessary to obtain a decision of the question whether in these instances the holder in 1846, or the person in possession when the tenure was made perpetual, should be considered the original grantee. At the same time he proposed the adoption of the rules sanctioned by Government for the Cis-Satlaj States, with two subsidiary rules made by the Board of Administration. The Financial Commissioner expressed his opinion that the status of 1846 should be taken as determining the original grantee, and supported the Commissioner's proposals as to registers, and as to the adoption of the Cis-Satlaj rules of succession. The Lieutenant Governor concurred, but before issuing final orders, submitted the correspondence to the Government of India, and the President in Council's approval of the proposed rules was conveyed in letter No. 5657, dated 23rd November 1860. The question whether this approval would be sufficient to give them the force of law

under Section 25 of the Indian Councils' Act need not be considered, as that of the Lieutenant Governor would be sufficient, though he delayed giving his assent to the rules until he had ascertained the views of the Government of India.

Succession to jagírs granted after 1859.

In 1859, in letters No. 476, dated 25th November, and No. 680, dated 14th December, to the Punjab Government, the Government of India laid down the rule that jagírs subsequently granted in perpetuity should be inherited integrally. The rule thus prescribed was made public in Financial Commissioner's Book Circular No. XLIII—84, dated 18th September 1860, by direction of the Lieutenant Governor.

Primogeniture established in part of the Ramghar jagír in Ambalah.

In the same year the Governor General in Council, in letter No. 1490, dated 1st April, sanctioned the entail* of the estate of Mían Deví Singh of Ramghar, in the Cis-Satlaj States, upon his eldest son, Mían Ranjít Singh, and directed that the estate should in future descend to the eldest son in each generation.

Primogeniture among jagírdars.

Subsequently, the Punjab Government proposed to the Government of India the introduction of the law of primogeniture among jagírdars generally, when their consent could be obtained, and also the abolition of the custom of *chundavand*, or division by allotting an equal share to the sons of each mother without reference to the number of sons, where that custom existed. The Government of India, in a letter dated the 12th May 1860, disapproved of any interference on the latter point, but authorized the Punjab Government to take steps to obtain the consent of the heads of families and the chief members interested to the introduction of the rule of primogeniture. The Punjab Government, accordingly, in their Circular No. 2, dated 25th May 1860, directed Commissioners to ascertain the wishes of the owners of large perpetual jagírs in their Divisions, and if they deliberately and voluntarily agreed that the succession to their estates should be regulated by the law of primogeniture, to the exclu-

* The word entail seems to be used improperly in this order, as it was certainly not intended to exclude the brothers of Ranjít Singh from the succession, should he die without male issue. Nor was it meant to exclude junior branches of Ranjít Singh's posterity from the succession on failure of the elder branch, but only that the estate should descend integrally to the person entitled by right of primogeniture.

sion of all other laws or customs whatever, to obtain from them a formal deed, which should alone be of force to determine the future legal transmission of their jagírs. After the receipt of the Commissioners' reports, further instructions upon the subject were issued by the Punjab Government to the Commissioners of all Divisions, except Peshawar, Derajat, and Hissar, in letter No. 246 (and 247 to 252,) dated the 6th April 1861. A number of Chiefs executed deeds accordingly, whilst others declined to do so. In many cases these deeds entered into details upon points not contemplated in the Government instructions, and it does not appear that the express confirmation of Government was actually given to any of the deeds executed after 6th April 1861. Still, as regards the adoption of the rule of primogeniture, and the provision to be made for junior branches, such deeds would apparently become binding if confirmed by Government, and those executed under the Circular of 25th May 1860, would perhaps be binding, without such confirmation, as far as they were in accordance with that Circular. The question how far such deeds would amount to an execution of a power conferred by law, has, however, never been decided.

Deeds establishing primogeniture how far binding.

It only remains to refer to the jurisdiction in cases of succession to jagírs. It was usual in the Cis-Satlaj States, and the Punjab, to reserve the decision of such cases to Government, or to executive officers subordinate to it, to whom it delegated the power to dispose of them; and there is reason to believe that in many cases, especially in those of the larger perpetual jagírs, Government not merely laid down rules to regulate the succession, but expressly reserved the power of deciding who should succeed, either in the orders confirming such jagírs, or in the deed of grant. In the case of jagírs granted after 1859, as has been seen, it was made a rule that Government should determine who should succeed to the whole jagír, division being prohibited.

Jurisdiction in regard to succession to jagírs in the Punjab.

There may, however, be cases in which the jurisdiction of the Civil Courts has not been expressly barred, and though it was excluded in the Punjab by the Board of Administration's Circular No. 5 of 1853,* and by Section I of the first part

* This Circular was not issued under the authority of the Government of India, so far as I can ascertain.

of the Punjab Civil Code, yet on the introduction of the Civil Procedure Code, the Chief Court laid down in its Book Circular No. XII of 1867, that such cases were cognizable by the Civil Courts, unless their jurisdiction was barred by the terms of the grant.

In the Dehli territory.

In the case of the Dehli territory, the Punjab Government asserted its right to regulate the succession to jagír and istamrárí tenures in a letter No. 72, dated 12th January 1861, to the Judicial Commissioner. The Government of India, however, called for a report on the case which had given rise to this letter, and an explanation of the grounds on which the right was claimed, and on receiving the reply of the Punjab Government, which referred to the Punjab Civil Code as an authority, and forwarded copy of a judgment passed in the case by the Judicial Commissioner on special appeal, in which it was held that the right to share in alienations of Government revenue was not within the jurisdiction of the Civil Courts, it disclaimed any power on the part of Government to interfere to regulate the succession, where such power had not been expressly reserved in the grant, and cited, with approval, a judgment of the Sadr Dewani Adálat, North Western Provinces, to the effect that the succession to tenures granted by Government fell under the cognizance of the Courts of Judicature when no condition to the contrary was annexed to the grant. *(No. 4092, dated 25th July 1861, from Secretary to Government of India, Financial Department, to Secretary to Punjab Government).* Though the rule laid down in the Punjab Government letter of 12th January 1861, to the Judicial Commissioner, might be held to have the force of law under the Indian Councils' Act, it must be regarded as having ceased to be in operation from the time when it was overruled by the Supreme Government, and questions of succession to istamrári tenures must be governed by the ordinary law, and decided by the ordinary Courts.

VIII.—Miscellaneous items of Land Revenue.

Grazing tax (trinî) and jungle products in the Multan Division.

In the grazing tracts of the Punjab, the pasture of cattle in waste lands not allotted to villages at Settlement, forms a considerable source of revenue to the State. This revenue is generally collected by leasing out the grazing to contrac-

tors, but in the Multan Division, and in part at least of the Derajat, it takes the form of a fixed tax on each head of cattle grazed in Government waste lands. Rules for the collection of this tax were proposed in 1858 by the Commissioner of Multan, and the Financial Commissioner in 1860 submitted these for the approval of the Lieutenant Governor, at the same time requesting that certain principles should be affirmed. The rules were sanctioned by the Lieutenant Governor in No. 575, dated 26th April 1860, to Financial Commissioner, and the principles advocated by him were generally accepted. These provided, among other things, for the annual leasing of sajji and other jungle products to contractors, and for the leasing of grass and fuel preserves (*rakhs*), in regard to which rules had also been prepared by Colonel Hamilton. The Lieutenant Governor also authorized the extension of the rules to the Leiah (now the Derajat) Division, giving the Commissioner power to suggest alterations; and the adoption in the Shahpur district of the same rule, unless the system of leasing the grass preserves as at Lahore were adopted instead. The rules, however, were never brought into operation in the Leiah Division, and in Shahpur, although the system of assessing the tax upon cattle was kept up for some time in regard to certain waste tracts, this has since been entirely abandoned for that of leasing the grazing lands.

Fund set apart for establishment, &c.

By letter No. 633, dated 16th April 1861, to the Financial Commissioner, the Lieutenant Governor authorized ten per cent. of the proceeds of the grazing tax being set apart as a fund to provided for the payment of establishment, and for outlay in improving the grazing lands.

IX.—Inland Customs, Salt and Saltpetre.

Up to the time of the annexation of the Punjab a large number of inland customs and other duties were collected by the Sikh Government. By Government of India despatch No. 2766, dated 27th December 1849, to the Board of Administration, a new system was ordered to be introduced, all inland custom and transit duties being abolished, and their place being supplied by an excise on spirituous liquors and drugs,—by ferry tolls,—by stamp duties, which had already received the sanction of Government,—and by a change in the system of collecting the salt revenue, the mines in the Salt Range, instead of being leased out to contractors, being worked under the

System of collecting the salt revenue at the Cis-Indus mines. Prohibition of manufacture of alimentary salt in the Punjab.

direct control of Government, and an excise of two rupees per *man* being levied at the mouth of the mine, in which was included the cost of working and all other charges. At the same time the manufacture of alimentary salt in the Punjab was prohibited, and the rules and penalties laid down in Act XIV of 1843 were declared applicable, subject to such modifications as the Board might, from time to time, deem expedient. The North West Customs' line, which, on the annexation of the Jalandhar Doab, had been carried up the east bank of the rivers Satlaj and Biás, was altered in direction, being carried down the right (or west) bank of the Satlaj to meet the Indus near Mithankot, and an excise of Rs. 2 per *man* was imposed on salt crossing the line as it would then stand. These orders were made public by the Board of Administration's Revenue Circular No. 1, dated 5th January 1850, addressed to all Commissioners in the Punjab, and to the Deputy Commissioners of Peshawar and Hazarah, *(p. 17 of the Board's Revenue Circulars)*, and were communicated to the Commissioners Cis and Trans-Satlaj States, by Secretary to Board's No. 4, dated 5th January 1850, forwarding copy of the Circular for their information.

Modification of the North West Customs line.

Rules for the protection of the Revenue derived from the Salt mines in the Sind Sagar Doab, and at Kálabágh, prepared by the Board of Administration, were afterwards sanctioned by the Governor General, in Government of India letter No. 1690, dated 29th May 1851, and were circulated by Revenue Circular of the Board of Administration, No. 29 dated 27th September 1851.

Rules for the protection of the Revenue from the Salt mines.

By subsequent orders of the Lieutenant Governor, sanctioned by the Supreme Government, the price of Government salt at the mouth of the mines was raised to 2 rupees, 2 annas, and afterwards to 3 rupees per *man*.

Increase of price of Salt at the mines.

The duty on salt imported into the Punjab across the Dehli Customs' line was also raised to Rs. 3 per *man* by Notification No. 360, dated 5th March 1861, *(p. 103 of Punjab Government Gazette for* 1861); and the duty which previously existed on saccharine produce crossing the Delhi line

And of duty on imported salt.

Duty on Saccharine produce.

was increased by Notification No. 468, dated 23rd March 1861, *(p. 134, ibidem)*. Notice was also given that the same rate of duty would shortly be imposed on saccharine produce passing down the Satlaj, or crossing from its right to its left bank west of Fazilka, *(Notification No. 701, dated 30th April 1861, at p. 225 of Punjab Government Gazette for 1861)*; but after the 1st of August 1861 this Notification was modified so as to make the duty payable on saccharine produce crossing the Satlaj Preventive Line in either direction, *(Notification No. 1863, dated 5th August 1861, p. 513, ibidem)*.

Sambhar Salt imported from North Western Provinces.

The possession of any foreign salt between the Biás and the Indus was prohibited by No. 21 of the Rules made in 1851 for the protection of the Salt Revenue. This rule was afterwards modified in favor of Sambhar salt, which had already paid duty in the North Western Provinces, by the Governor General in Council, in Government of India letter No. 3148, dated 3rd June 1856, to the Chief Commissioner.

Trans-Indus Salt

The rules of 1851 did not apply to the salt mines west of the Indus, except that at Kalabagh. The duty to be levied at those mines was left by the Governor General in Council to be fixed by the local officers *(Government of India, No. 62, dated 13th April 1850, to the Board of Administration)*; and it was ultimately decided to abandon the contract system, and fix the price of the Salt at the mine's mouth at 4 annas per *man (Government of India, No. 10, dated 22nd May 1850, to the Board)*. Instructions issued by the Board to the local officers were also approved by the Governor General, and those instructions seem to be the only rules for the management of the Trans-Indus mines, beyond those contained in the Government despatch of 27th December 1849.

Salt works in Gurganw.

When the Dehli territory was transferred to the Punjab, some villages in the Gurganw district, favorably situated for the manufacture of earth salt, and in which such salt was allowed to be manufactured, subject to payment of duty on the salt being exported beyond a customs' cordon established around them, came under the Punjab administration. Similar villages were found in the confiscated estates of the Nawabs of Jhajar and Farukhnagar, in which a share in the salt manufactured had been claimed by

the Nawábs, and farmed out by them to contractors. The Lieutenant Governor at first authorized the continuance of the farming system in the Jhajar district, but afterwards, on the proposition of the Financial Commissioner, directed the discontinuance of the manufacture in certain villages, and that the farming system should be abandoned in the remainder, and the system applied in the case of the Gurganw villages substituted for it.

Salt produced in the manufacture of saltpetre.

There are many localities in the Punjab, the soil of which contains large quantities of potassium and sodium salts, and at one time the saltpetre manufacture attained a considerable development, and an export trade in this article down the Indus grew up. It was found that in the manufacture of saltpetre a large proportion of common salt was often produced, which was considered likely to injure the salt revenue. The Punjab Government at first directed that the saltpetre should be refined at the place of manufacture so that no more than ten per cent. of salt should remain in it *(letter No.* 738, *dated 4th June* 1860, *to Financial Commissioner)*; but afterwards, on the representation of the Collector of Salt Revenue, it modified this order, directing instead that earth containing more than 30 per cent. of salt should not be used in the manufacture of saltpetre *(No.* 1862, *dated 10th December* 1860, *to Financial Commissioner.)*

Tax on manufacture of saltpetre.

The Chief Commissioner had, in 1855, imposed a tax of Rs. 2 per pan on the manufacture of saltpetre, and in 1859 the Lieutenant Governor increased this tax to Rs. 4 per pan, or Rs. 12 per 'agar' *(letter No.* 1312, *dated 20th October* 1859, *to the Financial Commissioner, printed in Financial Commissioner's Book Circular XCV—*97, *dated 5th November* 1859, *p.* 200 *of 3rd volume of Financial Commissioner's Circulars)*. The proceedings of the Lieutenant Governor were approved by the Governor General in letter No. 691, dated 15th December 1859, to the Punjab Government.

X.—*Abkári.*

Excise on spirituous liquors and on drugs.

The rules to be noticed upon this subject are not numerous. The Board of Administration in their Revenue Circulars No. 116, dated 28th May 1849, and No. 127, dated 2nd June 1849, ordered

the introduction in the Punjab districts of an Abkári, or excise on spirituous liquors, and of an excise on intoxicating drugs, including opium, from the 1st July 1849, and these taxes had already been established in the Cis and Trans-Satlaj territories. In the Government despatch abolishing inland customs, No. 2766, dated 27th December 1849, paras. 9 and 14, the Governor General approved of the imposition of an excise upon spirituous liquors and drugs. The law under which these excise duties were levied was that contained in the Regulations referred to in paras. 101 to 116 of Directions to Collectors, with the appendices, Nos. XII and XIII. Act XXI of 1856, which repealed these Regulations, and consolidated the law upon the subject, has since been extended to the Punjab, (subject to certain provisos,) by the Governor General in Council under the provisions of Act XXVIII of 1864 (*Vide the Notifications of* 1865 *and* 1869, *cited at pages* 282 *and* 283 *of Smyth's Acts applicable to the Punjab, volume I.*)

Extension of Act XXI of 1856 to the Punjab.

In 1856 the Chief Commissioner proposed for the sanction of the Government of India two rules regarding the retail sale of imported liquors, and of those manufactured in India after the European method, and these rules were sanctioned by the Governor General in Council in letter No. 4509, dated 29th August 1856, to the Chief Commissioner. These rules are still in force, except that for the uniform rate of Rs. 32 per annum for licenses for the retail sale of such liquors, a graduated scale of fees for such licenses has been substituted by the Financial Commissioner under the provisions of Section 27 of Act XXI of 1856.*

Retail of imported liquors, and liquors manufactured in the European method.

In 1853 (*No.* 261 *dated* 11*th October, to the Chief Commissioner*) the Governor General in Council directed the sale of liquor at Jalandhar to be strictly confined to what should be drunk on the premises where it was sold,—no passes for removal of liquor being given on any account whatever. In 1860 this rule was extended to all Military Cantonments in the Province by the Financial Commissioner, under the authority of the Lieutenant Governor, (conveyed in *Secretary to Punjab Government's No.* 1685, *dated*

Sale of liquor in Cantonments.

* The Financial Commissioner has been invested, under Section 2 of Act XXVIII of 1864, with the powers conferred upon the Board of Revenue by Act XXI of 1856,—*Vide note at page* 257 *of Smyth's Acts applicable to the Punjab, volume I.*

28th December 1859, *to the Financial Commissioner*), and certain other rules relating to the lease of the Abkarí in Military Cantonment were laid down under the same authority—(*Financial Commissioner's Book Circular No. I—5, dated 13th January* 1860,—*p.* 219 *of 3rd volume of Financial Commissioner's Circulars*). These rules remain in force, though the form of lease prescribed in the Circular issuing them has since been modified.

XI.—Opium.

Growth of the poppy in the Punjab not restricted. The produce sold only to contractors.

One important departure from the system under which the excise upon intoxicating drugs was collected in the North-Western Provinces, was made in the Board of Administration's Revenue Circular No. 127 of 1849, already referred to. No restriction was placed by the Board upon the cultivation of the poppy, but the cultivators were prohibited from selling opium, except to contractors, who had obtained a lease of the right to sell intoxicating drugs within some revenue or police sub-division of a district.

The opium monopoly subsequently came to be sold separately from that of the sale of other intoxicating drugs, and a practice grew up in some poppy-growing districts of allowing the contractor a certain fee or per-centage on sales of opium grown or found in his sub-division to any other contractor. In 1860, this was brought by the Financial Commissioner to the notice of the Local Government, and he proposed a new system, under which cultivators of opium in the four divisions of Lahore, Amritsar, Trans-Satlaj States and Cis-Satlaj States, should pay an acreage fee of 2 rupees per annum upon the area under the poppy crop, and should be at liberty to sell the produce, whether in the form of opium, or of a decoction of poppy heads, to any one they chose, the prohibition against sale to any one but a contractor being done away with. This proposal received the sanction of the Lieutenant Governor in letter No. 614, dated 4th May 1860, to the Financial Commissioner, and the latter accordingly introduced the new system by his Circular No. 39, dated 10th May 1860,* addressed to the Commissioners of the four Divisions for which it had been proposed.

Agreage tax upon the cultivation of the poppy.

* This Circular will be found at pp 283 and 284 of the 1st volume of Smyth's Acts applicable to the Punjab.

On the introduction into the Punjab of Act XXI of 1856, Sections 28, 35, 48, 51 and 52, were excepted, as regarded those portions of the Province into which the acreage system had been, or should afterwards be, introduced, so far as they restricted the sale of opium to licensed vendors only, and prohibited the possession of opium by other parties.* But in 1869 the Governor General in Council revised the original notification, declaring these sections in force in all districts, subject to certain provisos. By one of these the sale of opium in districts where the acreage system was in force by the cultivator to any one but a licensed contractor or his agent was prohibited, while no restriction was placed upon the possession of home manufactured opium by *bonâ fide* cultivators of the poppy.†

* Smyth's Acts applicable to the Punjab, volume I, p. 282.
† *Ib.* p. 283.

APPENDICES.

I.—REVENUE SURVEY, AND DEMARCATION OF VILLAGE BOUNDARIES, CIS AND TRANS-SATLAJ STATES.

Extract from Resolution of the Right Hon'ble the Governor General, in the Foreign Department, dated Simlah, the 30th July 1846, with reference to the Revenue Survey of the Cis and Trans-Satlaj States.

The survey will be conducted according to the rules laid down for the Revenue Surveys lately employed in the North Western Provinces, and will embrace the same details. . . . . .

The demarcation of village boundaries will be conducted in accordance with the rules prescribed by the Sadr Board of Revenue, North Western Provinces, for the decision and demarcation of boundaries preparatory to Survey and Settlement.

NOTE.—The rules referred to will be found in Sections i and ii of the Board of Revenue's Circular No. I, 'On Settlements,' and in Sections ii and iii of 'Directions to Settlement Officers, North Western Provinces.' On the latter subject similar instructions were afterwards given with reference to the Punjab in para. 59 of the Despatch constituting the Board of Administration (*ante*, p 20.)

II.—SETTLEMENT OF SHARED VILLAGES, CIS-SATLAJ STATES.

Extract paras. 2 and 6 of a letter No. 2, dated 12th April 1849, from the Secretary to the Board of Administration for the Affairs of the Punjab.

2. I am directed to observe that the Board concur with Mr. Wynyard in the expediency of assessing all villages in which Government possesses any share, whether divided or held in common with the other shareholders.

6. At present they propose issuing instructions that in all divided estates the Settlement Officer survey and assess the whole village area, recording the rights of all parties. In such cases the Government will collect its own share of the revenue, and the other shareholders their's. But when the lands are held in common, the Government Officials will collect the whole revenue, paying the co-sharers their proportions.

Copy of a letter No. 554, dated 26th April 1849, from the Secretary to the Government of India, with the Governor General, to the Board of Administration for the Affairs of the Punjab.

I have the honor to acknowledge the receipt of Officiating Secretary Major Edwardes' letter under date the 12th instant, No. 2, forwarding copies of correspondence regarding the jagír and and muáfi tenures in the Cis-Satlaj States, whether those in which Government possesses any share should be assessed or not.

2. In reply, I am directed to state that the Governor General concurs in the view of this question contained in your letter, and requests that the villages be assessed and settled accordingly.

NOTE.—This rule was extended to villages shared between Government and the Protected States, it being held that the jurisdiction in such villages must rest with the British Government until the claims of the Dependent State should be adjusted by exchanges of villages. All such claims have since been settled, Government giving up its share in some villages in exchange for that of the Dependent State in others.

As regards villages shared between the British Government and jagírdars or muáfidars, the rule ceased to be of any importance on its being afterwards found necessary to bring all jagír villages under Settlement.—*Vide* Board of Administration's Revenue Circular No. 13 of 1852, issued under the authority conveyed in para. 43 of Government of India No. 418, dated 31st March 1849.

III.—DEMARCATION OF VILLAGE BOUNDARIES IN THE POSSESSIONS OF DEPENDENT CIS-SATLAJ CHIEFS.

Extract paras. 3 to 7, and 24, of a letter No. 19, dated 17th May 1849, from the Secretary to the Board of Administration Punjab, to the Secretary to the Government of India.

3. In order to understand clearly the question in dispute, and the points on which Major Mackeson and Mr. Wynyard differ, it will be necessary to give a brief sketch of the various tenures according to which the Cis-Satlaj States are held.

4. In 1846 all the Chiefs, other than those noted in the margin, were deprived of Sovereign powers.

1. Pattialah.
2. Jhind.
3. Nabha.
4. Malair Kotla.
5. Faridkot.
6. Chichrauli.
7. Buriah, (Dialgarh.)
8. Maudot.

There are therefore, including the British Government, but nine States having rights of jurisdiction.

5. Of the remaining Chiefs, some are dependent on the British Government, which has jurisdiction within their possessions; others are similarly dependent on one or other of the eight States above-noted; others have estates, for part of which they are dependent on one Sovereign Chief, and for part on another; and, finally, there are co-parcenary villages presenting every shade of these tenures: the whole may be classed as per margin. (*See below.*)

I. Villages belonging solely to the British Government.

II. Villages belonging partly to the British Government, and partly to a Sovereign State, the former having police powers therein.

III. Do. do. do. the latter having police powers therein.

IV. Villages belonging partly to the British Government, and partly to a Dependent State, the former having police powers therein.

V. Do. do. do. the police powers therein being with one of the Sovereign States.

VI. Villages belonging solely to a Dependent State, the police jurisdiction being with the British Government.

VII. Do. do. do. the police jurisdiction being with a Sovereign State.

VIII. Villages shared by two or more Dependent States, the police powers being with the British Government.

IX. Do. do. do. the police powers being with a Sovereign State.

X. Villages shared by two or more Sovereign States, the British Government having criminal jurisdiction.

XI. Do. do. do. one of the Sovereign States having police powers.

XII. Villages belonging solely to a Sovereign State having police powers therein.

XIII. Do. do. the British Government having police powers.

XIV. Villages held by two or more Sovereign States with Government jurisdiction.

XV. Villages shewing almost every possible combination of the above tenures.

6. Complicated and anomalous as these tenures are, they are rendered more difficult by a division of Dependent Chiefs into two classes called in the vernacular "Zaildar" and "Tabidar." The meaning of these words is given in the margin: perhaps "protected" and "subjected" are respectively the best English equivalents.

I. A "Zaildar" Chief holds his estates under the "Zail" or protection of a Sovereign State, which has jurisdiction in his possessions. But he has the right of appeal to the British Government to whom, as paramount power, his possessions escheat on demise without lineal heirs.

II. A "Tabidar" Chief holds his estates from a Sovereign State to which they will lapse on his demise without lineal heirs. The right of appeal to the British Government is questioned.

7. The Settlement Officer was anxious to mark off separately all the villages in the Cis-Satlaj States, (Mauzahwar Hadbast), including those of the eight Chiefs having Sovereign powers, or, if the villages held solely by one of the Sovereign States were excepted, that all others, including co-parcenary villages and villages held by Dependent Chiefs, whether "protected" or "subjected," should be separately defined. The Commissioner and Superintendent refused to allow this, and limited the demarcation to villages under the police jurisdiction of the British Government. But he permitted the Settlement Officer to put up external boundaries, dividing villages held solely by a Sovereign Chief or a "protected" Chief from co-parcenary estates. He objected however to allow the same privilege to "subjected" Chiefs, whose possessions were not to be separated from the Sovereign State from whom they held.

24. To sum up, the Board would advise that a village demarcation and professional survey be authoritatively made in all estates which comply with any one of the considerations noted in the margin.

(1.) Estates in which the British Government has a share, as per letter No. 554, dated 26th April 1849, from Secretary to Government.

(2.) Estates under Police jurisdiction of British Government.

(3.) Estates, however held, for which a right of appeal lies to the British Government

(4.) Estates, however held, in favor of which the Agent, Governor General, has ever interfered authoritatively.

(5.) Estates of Dependent Chiefs which will escheat, on demise without heirs, to the British Government.

(6.) Estates held by two or more Sovereign States with joint police jurisdiction.

But that all estates of which the Chiefs cannot shew that they satisfy one of these conditions, be considered part and parcel of the Sovereign State under which they hold: and with reference to the Sovereign States themselves, the Board would suggest that the Officiating Commissioner and Superintendent Cis-Satlaj be directed to point out all the advantages of a village professional survey to the Chiefs, to obtain if possible their consent to a measure so fraught with advantage to themselves, their subjects, and to the British Government.

Extract para. 1, and part of para. 2, of letter No. 861, dated 4th June 1849, from Secretary to the Government of India, to the Board of Administration for the affairs of the Punjab.

I have the honor to acknowledge the receipt of your Secretary's despatch dated the 17th ultimo, No 19, transmitting correspondence regarding the demarcation of village boundaries.

2. The late orders (No. 780, dated 23rd May,) respecting police powers, dispose of many of the cases now brought forward; with regard to the rest, I am directed to communicate the Governor General's full approval of all your recommendations.

NOTE.—See the letter referred to, *ante p.* 35.

IV.—ASSESSMENT OF LAPSED OR RESUMED REVENUE FREE-HOLDINGS.

Copy of docket No. 345, dated 10th March 1860, from Secretary to Lieutenant Governor of the Punjab, to the Financial Commissioner.

"Conveys Lieutenant Governor's approval of issue of the proposed Circular."

[This is endorsed upon Financial Commissioner's No. 182, dated 29th February 1860, submitting, for approval, the draft of Book Circular XII of 1860.]

BOOK CIRCULAR No. XII OF 1860.

Circular No. 18, dated 20th March 1860, to all Commissioners.

Issues instructions in regard to the assessment of lapsed or resumed muáfi plots.

You are aware that there have been several moot points in regard to the assessment of lapsed or resumed muáfi plots. Under the Punjab system of settlement, it has been required generally of Settlement Officers that they should fix the assessment upon rent-free holdings, which was only to be enforced upon the lapse of such holdings. In most districts such assessments have been fixed, but not universally, and I have now the honor to prescribe the following general rule concerning such lapses. Special care is to be taken that the directions now given be only allowed to influence plots lapsing after the date of this Circular; the rules are not to have any retrospective effect.

2. On the occurrence of a lapse, the Deputy Commissioner will not consider himself bound by the Settlement Officer's assessment,

but will proceed to assess the land at half assets, according to the method laid down in the Circular of the Sadr Board of Revenue, North Western Provinces No. E, dated 18th June 1852, of which an extract* accompanies for facility of reference I would draw the particular attention of District Officers to the distinction which is luminously drawn by the Board between half assets and half jama.

* Paras. 3 to 5 and form.

3. The report should be made half-yearly, through the usual channel, in the form now prescribed, *viz.*, for the half-years ending at the end of February and August. The sanction of superior authority will thus be obtained in time for the lapses of the second half of the official year being brought upon the rent-roll of the next ensuing year; and the lapses of the first half-year will, for that half-year only, be credited to profit and loss, and will be entered in the appropriate column in the statement of miscellaneous sources of revenue, which will shortly be supplied to you along with other revised forms for annual report.

4. If from any cause a reduction of assessment be granted to any village in which there is lapsed or resumed muáfi land, a proportionate reduction of assessment must be allowed to the latter.

5. It will be observed that the foregoing instructions are based upon the principle that the settlement of these muáfi plots, heretofore styled summary, is not strictly speaking, a summary settlement. It is to last for the duration of the regular settlement of the district in which the land is situated, and must, therefore, receive the sanction of this office. The Hon'ble the Lieutenant Governor has authorized me to inform you that the assessment of resumed muáfis must henceforth be kept distinct from summary settlements, and the statements must be submitted half-yearly when any settlements have been effected. The statement is to be considered one of the occasional forms mentioned in Supplement to the *Punjab Government Gazette* of 18th January 1858.

Extract paras. 3 to 5 of Circular No. E., of 18th June 1852, issued by the Sadr Board of Revenue North Western Provinces.

3. The entry in column 13, or the jama of the resumed land, at half asset rates, is thus obtained. One-half added to the jama at the average rates entered in column 12, gives the computed rental, and half of the jama thus calculated should be entered in column 13.

4. This is, however, only for the purpose of check and comparison. Enquiry should be made with regard to the quality of the land under settlement, and the parganah officers should be called upon to report, after personal inspection, what rental it yields or might yield. The sum finally demanded is to be regulated accordingly, a brief explanation being given in the column of remarks as to the party with whom the settlement has been made, and the grounds on which the demand has been fixed, when this last differs from that indicated by the average rates.

5. Where the land is settled with any one except the zamindar of the village, the whole sum payable by the occupant is first to be determined and entered in column 14. From this 10 per cent. is to be deducted for the zamindars, in return for the risk and trouble of collection, and the remainder entered in column 16, as the net Government jama, to be added to the jama of the estate.

FORM.

Statement of Lapsed and Resumed Muáfis summarily settled on the during the half year ending 18

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
				Resumed or lapsed land to be settled.													
							Cultivated.										
District.	Number.	Villages.	Jama.	Total area in acres.	Barren.	Culturable.	Irrigated.	Not irrigated.	Total cultivated.	Jama rate per acre on the cultivated area of the Mauzah.	Jama of the resumed land according to the Mauzah average rate.	Jama of the resumed land at half asset rates.	Proposed demand from resumed land.	Allowance to zamindars.	Net Government jama.	Total jama of estate.	REMARKS.
Kurbul,	27	Rajpoor, ...	1,000	18 2	2	4		122	122	2 3 6	27 11 9	20 12	9 21	2	19	1,019	The Settlement has been made with the ex-muafidar at half asset rates, which I have ascertained to be suitable to the quality of land.
Rajpoor,	15	Phulor, ...	827	8			3 2	4 2	8	3 1	24 8	18 6	12	1	11	8 3 8	The Settlement has been made with the ex-muafidar. As the land rents altogether for only 24 Rupees, I have fixed the entire demand at 12 Rupees.
Ditto,	18	Fyzabad, ...	305	19 3		2	6 1	11 2	17 3	2 11 5	48 2 7	36 1 11	48		48	353	As the muafidar never had actual occupancy of this land, it has been settled with the zamindar at full rates. As it has been always in sir cultivation, I have been unable to ascertain the rental, but th Tahsildar reports, after inspection, that the sum demanded is suitable.
Ditto,	22	Oosmanpoor,	1,121	11	3			8	8	2 8	21 4	15 15	12		12	1,133	Settled as in the last case with the zamindar. I have, however, ascertained that the land is of poor quality, and can rent for no more than about 18 rupees, of which ⅔ have been taken as the jama.
Etah,	121	Baiti, ...	211	13 1		1 2	5	6 3	11 3	2 5 6	27 8 7	20 10 5	25 8	2 8	22	234	Settled with the ex-muafidar, who has been in the habit of leasing it out to cultivators at a rental of 51 rupees. He will therefore be well able to pay the demand of 25 rupees 8 annas.

BOOK CIRCULAR No. XXXIX OF 1860.

Circular No. 76, dated 23rd August 1860.

Issues instructions in regard to settlement of muáfi plots with heirs of deceased shareholders.

Forwards copies of the following correspondence, for information and guidance, to all Commissioners, in continuation of this Office Book Circular No. 32, dated 20th ultimo.

Extract para. 5 of letter No. 917, dated 4th ultimo, from Secretary to Government Punjab, to Financial Commissioner for the Punjab.

5. Similarly, on the resumption, under previous orders, of muáfi plots which have been held for three generations, the District Officer, if he considers the case one of hardship, may recommend that the settlement be made with the heir and successor of the late muáfidar, at half rates of assessment, rights of proprietorship or tenancy remaining undisturbed.

Extract para 2 of letter No 668, dated 20th July, from Financial Commissioner, to Secretary to Government Punjab.

2. With respect, however. to para. 5 of your letter, I beg to state, for the information of His Honor the Lieutenant Governor, that the power to settle lapsed or resumed muáfis with the heirs of deceased holders, at half asset rates, has already been accorded to District Officers by para. 2 of my predecessor's Book Circular No 12, dated 20th March last. I have, therefore, not included the rules on this subject in my Circular.

Copy of letter No. 1063, dated 1st August, from Secretary to Government Punjab, to Financial Commissioner for the Punjab.

With reference to para. 2 of your letter No. 668, dated 20th ultimo, I am directed to point out that para. 2 of your Office Book Circular No 12, dated 20th March last, which merely gives authority to settle resumed lands at half assets, in other words at half the rental, which are the regular terms of settlement in the North West Provinces, does not meet the case in point.

2. The object of the Lieutenant Governor is to give a *favorable* tenure, in certain specified cases, to the heirs of deceased muáfidars, and the terms he would allow are these,—a settlement at *half jama*, or at half the *revenue* rates at which land of similar quality in the same village are assessed.

Copy of letter No. 1687, dated 7th November 1860, from Secretary to Government Punjab, to Financial Commissioner, Punjab.

In reply to your letter No. 822, dated 13th September, I am directed to state that the Lieutenant Governor accedes to your proposal, that the term Summary Settlement be expunged from the Punjab Revenue system, except as regards the Divisions of Peshawar and Leiah.

2. With reference to the third and fourth paras. of your letter, the Lieutenant Governor remarks that he wishes it to be understood, that in future no assessment of revenue is to be made at a higher rate than "half assets," as defined in para. 36 of the Saharanpur Instructions. Hence this will be the standard rate, whether the settlement

be made with the ex-muáfidar or the zamindar. Settlements made at half jama to the parties described in your Book Circular 39 of 1860 will be "one quarter assets." The heirs of Inamdars are not entitled to have the settlement of land, not their own, made in their favor.

His Honor agrees to the limitations detailed in your sixth para., but a clause should be added to the effect that the Deputy Commissioner may, in cases of peculiar hardship, recommend that the settlement be made with the ex-muáfidar.

With the above modifications your Circular may be issued.

The Circular referred to in the last para, was the draft of Book Circular No. LIV of 1860. The Circular, as issued, was as follows:—

Issues instructions in regard to the settlement of lapsed or resumed Revenue free-holdings.

In continuation of Book Circular No. 12 of 1860, I beg to remark that the word "Summary Settlement" is no longer applicable to any settlement arrangements in the Punjab, except in the Divisions of Peshawar and Leiah, and zillah Muzaffargarh of the Multan Division, and for the present, the confiscated jagírs in the Delhi territory. Regular settlements are reported in the well known form;—revisions of settlement are invariably to be reported in the manner prescribed in Book Circular No. 20 of 1858, and in *no other*;—cases of alluvion and diluvion in the mode prescribed in Book Circular No. 42 of 1860;—lapses and resumptions in the mode described in Book Circular No. 12 of 1860 There can be no other settlement operations, and attention to the rules laid down is not a mere matter of empty form, but touches upon a material portion of Revenue administration.

2. When a lapse or resumption take place, two subjects of appeal arise:—

I.—From the heirs of the late incumbent, or the incumbent himself, disputing the right to resume.

II.—From the heirs of the incumbent, or the incumbent himself, or from the zamindars, disputing the nature of the settlement, or the jama. It is important that the parties interested receive early notice of the orders of the Deputy Commissioner, that the appeals may be disposed of before the settlement is reported to this office for sanction. On the first point of appeal the Register is decisive, except where the license allowed by Book Circular No. 32 of 1860 is made use of in favor of certain muáfidars. On the second point the following rules will guide you:—

3. The ex-muáfidar or heirs of deceased muáfidar are only entitled to demand the privilege of a sublease, supposing—

I.—They reside in the village, and own, or cultivate, the land.

II.—They have planted gardens, or have tombs, temples, or buildings on the land.

III.—They have sunk wells, and improved the land.

IV.—They can shew some particular cause connecting them with the land. It is obvious that the great majority of muáfidars cannot urge these claims. In cases of peculiar hardship the Deputy

Commissioner may recommend that the settlement be made with the ex-muáfidar.

4. If their claim be admitted, they are entitled to a sub-lease on half assets, but they will pay their assessment through the lambardars, *not direct to the Tahsíldar*, and will occupy the position of Mukarrarídars, described in para. 118 of "Directions to Settlement Officers, North Western Provinces." Of the assessment thus calculated, 10 per cent. is deducted and left at the disposal of the lumberdars to cover Pachotra, Patwarís' fees, Road Fund, School Fund, Malbah, and Chaukidarí, the expenses of management and village cesses; but, if the muáfidar was in the habit of paying Malikanah, the sub-lessees will pay it still. The sub-lessees will have power to locate cultivators, but they are liable to be ousted from the lease at once,* as an intermediate tenure, should they fail to pay on demand to the Lambardar the assessment and the 10 per cent. and Malikanah, (where this last is proved to be demandable,) at any time within one month before the instalments of the Government Revenue fall due.

* Vide para. 263 of Directions to Collectors.

5. His Honor the Lieutenant Governor has further conceded the privilege of a sub-lease on half jama, or one *quarter* of the assets, to certain parties described in Book Circular No 39 of 1860. It must be understood that the heirs of enjoyers of inams which were continued for life, notwithstanding the introduction of Pachotra, are not entitled to any privilege of the kind described above.

6. Should the ex-muáfidar or heirs of the muáfidar decline to avail themselves of the privilege, (and their refusal should be taken in writing,) or should they not be entitled to it, the settlement will be made on half assets with the lambardars of the village or pattí. His Honor the Lieutenant Governor has ruled on this occasion that, for the *future*, no assessment of revenue is to be made at a higher rate than "half assets," as defined in para. 36 of the Saharanpur* Settlement instructions. Hence this will be the standard rate, whether the settlement be made with an ex-muáfidar or zamindar. This order is not to have retrospective application to lapses which have already taken place, or settlements already reported.

* In Appendix of new Edition of Directions to Settlement officers, North Western Provinces.

7. When the settlement officer has previously assessed the plot, but that assessment has not been acted upon, great caution should be used in suddenly applying it: an average rate deduced from a large area, comprising a variety of soils, will often be too heavy for a small plot of one kind of soil. In assessments, the actual *assets* should be taken into consideration. Should the zamindars refuse to engage, a farmer must be looked for, and a Malikanah reserved to the recusant owners.

8. The settlement of lapses and resumptions will be reported twice a year to this office, and sanction will be at once conveyed. It must be understood that jagír villages, and integral portions of villages, do not come under the rules given above;—the settlement of such is always made with the proprietors, and never with the ex-jagírdar or muáfidar, or heirs of deceased jagírdars or muáfidars, and

the settlement has generally been made by the Settlement Officer and acted upon, so that nothing remains to be done: but these lapses or resumptions must be entered in the half-yearly return, at the close of February and August, for formal sanction of this office, as that sanction is the warrant for your adding the revenue to the Kistbandi of the next financial year. The totals of the two half-yearly statements of lapsed and resumed muáfis should tally with "causes of increase" heading No. I. of your Annual Revenue Report and Statement No. XVI. A. Instances have been known of lapsed jagírs and plots being kept many years off the Kistbandi; this is a very grave error, and as the Accountant forwards lists of all items credited to profit and loss, will now be checked.

10. In connection with the last para. of Book Circular No. 12 of 1860, it is mentioned, that this statement of lapsed and resumed muáfis is not an *occasional* form, but the *half-yearly* form entered among the Returns of the Revenue Department, fixed by the Committee of Forms. The old form of summary settlement has been dispensed with by the Committee as no longer applicable.

V.—REVENUE FREE-HOLDINGS GRANTED FOR THE SUPPORT OF RELIGIOUS EDIFICES.

Extract paras. 2, 3, 4, and 6, of a letter No. 917, dated 4th July 1860, from the Secretary to the Punjab Government, to the Officiating Financial Commissioner, Punjab.

2. The Lieutenant Governor sanctions the release of 12 ghumaos of land for the support of the temple in Mauzah Bhopalwala of Samryal, zillah Siálkot, so long as the building remains, on the usual condition of good behaviour.

3. His Honor further directs, as suggested by Mr. McLeod, that whenever, under the operation of a decision heretofore passed, the endowment held by a Mosque or Temple, would lapse on the death of the present incumbent, it shall be competent to the District Officer to refrain from carrying that decision into effect on his decease occurring, and to report the case for final instructions; and if he shall be of opinion that the institution is valued by the people, and that the resumption is likely to prove distasteful to them, it will be incumbent on him to adopt this course.

4. The District Officers may also be instructed to report any case in which they have reason to believe that the resumption of a grant, hitherto appropriated to the support of a Dharmsalah, Takiyah, or Khangah, is likely to create serious dissatisfaction, retaining the proceeds in deposit pending the receipt of final orders.

6. The above orders are in accordance with the tenor of paras. 49 and 50 of the letter from the Supreme Government to the late Board of Administration, No. 418 dated 31st March 1849, and I am to request that you will give them early effect by a Circular from your Office, and carefully watch their future operation.

NOTE.—Circulated with Financial Commissioner's Book Circular XXXII—64, dated 20th July 1860.

VI.—ASSESSMENT OF GARDENS IN THE TRANS-SATLAJ STATES.

Extract paras. 1, 2, 4, and 5, of No. 2387, dated the 8th October 1847, from the Under Secretary to the Government of India, with the Governor General, to the Commissioner and Superintendent Trans-Satlaj States.

I have the honor to acknowledge the receipt of your letter under date the 9th ultimo, No. 185, with its enclosure, being copy of a communication from the Deputy Commissioner at Hushiárpur, on the subject of the rights which Government have in groves and gardens, which have been relinquished, &c., and in reply to state as follows:—

2. As regards the alienation of land to parties sinking wells and making gardens, noticed in your 6th para., I am desired to observe, that whenever the public benefit is consulted in these works, the Governor General will not hesitate to confer land rent-free for their construction.

[Para. 3 refers to a particular case upon which the orders of Government had been asked for.]

4. The Governor General likewise concurs with you that the produce of gardens, which Government have given up, when the proprietors are in possession, belongs to them, and that the land should simply be liable to its proportion of the village assessment; also that where no proprietors exist, that it be either leased separately and to the best advantage, subject to certain conditions to prevent destruction or detriment to the property, or be included in the village assessment, when the produce of the garden shall be common property with all the proprietors.

5. In reference to your suggestion that the grants of Kardars, where the grantees have sunk wells, be not exempted from assessment, and that land be not alienated for gardens and wells, except when the proposed grantee has really executed a work of public utility, the benefits of which are decided, His Lordship observes that no general rule can be laid down in such cases, and that each must be treated on its individual merits.

NOTE.—Para. 2 relates to a matter within the province of the Executive Government: para. 4 lays down an important rule as to the settlement of garden lands.

VII.—REDUCTION OF ASSESSMENTS OF LAND REVENUE.

No. 1606, dated 22nd October 1860.

Draft Circular approved of and sanctioned by His Honor.

(Sd.) R. H. DAVIES, *Secretary.*

This is endorsed on Financial Commissioner's No. 904, dated 13th October 1860, submitting, for approval, "draft of Book Circular No. XLV, dated 5th current." The Circular is subjoined:—

BOOK CIRCULAR No. XLV OF 1860.

No. 93, dated 5th October 1860, to all Commissioners.

Issues instructions for granting reductions in Districts of which the settlement has been sanctioned.

The Settlements of nearly all the Districts of the Punjab have received the sanction of Government. Book Circular XXXVI of 1860, has laid down the only legal process for the collection of the Revenue: Book Circular XLII of 1860 has laid down the rules for giving relief in case of injury from the action of the rivers: Book Circular XXXIV of 1860, has prescribed the mode of granting relief in cases of calamity of season: Book Circular XII of 1860, has anticipated the possibility of over-assessment of lapsed muáfi holdings.

2. There may be still cases of original over-assessment, or subsequent deterioration of assets, to such an extent as to necessitate reduction of demand. His Honor the Lieutenant Governor has authorized me to prescribe the following course of action:—

3. The settlements which have been sanctioned had been tested for some years previously by actual experience. The fullest particulars must be collected before reduction can be recommended: the Government cannot be referred to upon individual cases as the Deputy Commissioner may please to report them. The Commissioner should, once a year, during his winter circuit. pass under review the fiscal position of each district, visit the localities where distress is understood to exist, or where the revenue has been paid with difficulty, hold conference with the Deputy Commissioner, Extra Assistant Commissioner, Tahsíldars, and agricultural notables who have local knowledge, and having satisfied himself of the necessity, he can make one general report in the form prescribed in Book Circular XX of 1858, suspending the demand in anticipation, should the case be urgent.

4. Any Deputy Commissioner who has not, by the first of October, collected the whole of his rabí instalments, or reported on each case of balance to the Commissioner, has simply not done his duty as a Revenue Officer. If he has collected his instalments or reported each case of balance, he has placed the Commissioner in a position to act decisively, and with effect during the cold weather. Before the close of the financial year the orders of Government will have settled the matter.

5. The assets of a village, at any time, are represented by the cultivated area, the number of wells in gear, the number of ploughs with full complement of oxen, the number of cultivators, proprietary or non-proprietary. A distribution of the assessment on those statistics will bring out a rate which will be an index of the pressure of the assessment on the existing resources, and this can be compared with the rate of other villages in adjoining parganahs and Districts. Thus, any case of undue pressure on individual villages will come to light Other circumstances will then have to be taken into consideration, such as intestine quarrels among the proprietary, uncertain tenures, faulty distribution of the Government assessment among the khewatdars, possibility of arranging farm or transfers. The Government will not reduce its demand unless sufficient and intelligent reason is shewn for doing so.

VIII.—ASSESSMENT OF LANDS IMPROVED BY PRIVATE IRRIGATION WORKS.

(Revenue Department.)

Notification No. 546, dated 3rd April 1861.

The special and immediate attention of all Revenue officers is directed to para. 4 of the Circular of the Board of Administration, No. 41 of 1850, quoted below, regarding the repair of old wells, sinking of new ones, and the excavation of water-courses.

"The Board authorize the Commissioners of Divisions, in all cases where works of the above nature have been executed from the private funds of individuals, or where the advances of Government have been duly repaid, to grant Pattahs, securing to the owners of the land that nothing in excess of the ordinary unirrigated rates shall be chargeable for a term of years by Government.

For new wells 20 years,

For old wells out of use, 10 years,

For cuts from rivers and jheels, 5 to 10 years,

with reference to the sums expended on the work, seem to be reasonable periods of exemption ; but for any especial case the Board are prepared to accede to even longer terms, due reasons being shewn for so doing."

These terms should be made generally known through the Tahsíldars.—(*Punjab Government Gazette for* 1861, *p.* 158.)

IX.—COMPENSATION FOR LAND TAKEN UP FOR PUBLIC PURPOSES.

Extract para. 5 of a letter No. 232, dated 26th May 1851, from the Commissioner and Superintendent Cis-Satlaj States, to the Secretary to the Board of Administration for the Affairs of the Punjab.

5. I should be glad to be favored with the Board's instructions as to the rule which should be followed in giving compensation for the lands of *jagír* villages, which may be taken into the new road. Under the conditions of our protection, the Chiefs were expected, or bound, I believe, to make and repair roads within the limits of their estates, but their position is altogether altered : they are required to contribute to the Road Fund, and it is clear that those conditions cannot now be equitably maintained in the estates of *disfranchised* Chiefs. They suffer in the diminution of their revenue by the occupation of lands belonging to their estates for Government purposes, and their zamindars, or the actual occupants of the land, suffer by the loss of their agricultural profits, and I do not see why both these parties should not have as good a title to indemnification as the zamindars of Government villages. If the Board concur, they will perhaps permit me to direct the District Officers in all such cases, to have the lands measured, and the revenue fairly realizable by the jagírdar therefrom estimated, to make up to the jagírdar for the loss of his revenue by a payment equivalent to 15 years purchase, and to compensate the occupants of of the land for the withdrawal of their agricultural profits by an allowance of 10 per cent. on the jagírdar's estimated revenue, similarly redeemable by a payment equivalent to the aggregate of the allowance so calculated for 15 years.

Extract para. 3 of letter No. 1133, dated 17th June 1851, from the Secretary to the Board of Administration for the Affairs of the Punjab, to the Commissioner Cis-Satlaj States.

3. Their opinion is in accordance with yours also in regard to compensation being due to the jagírdar as well as to the actual occupants of the land, when jagír villages are encroached upon for public purposes. Further, they approve of the mode in which you propose to fix the compensation.

Extract from a letter No. 2113, dated 2nd July 1851, from Secretary to the Government of India, to the Board of Administration for the Affairs of the Punjab.

2. His Lordship approves of the instructions issued by your Board to Mr. Edmonstone, as stated in the 3rd paragraph of your Secretary's letter, regarding the appropriation of lands, and the mode in which it is proposed to fix the compensation in such cases.

Extract from a letter No. 2737, dated 10th August 1852, from the Secretary to the Government of India, to the Board of Administration for the affairs of the Punjab.

1. I have the honor to acknowledge the receipt of your Secretary's letter dated 18th June, No 607, submitting a statement of rent-free lands taken up for the Cantonments in Siálkot, and requesting the decision of the Most Noble the Governor General in Council on the principle to be adopted in awarding compensation to the proprietors of rent-free holdings taken up for public purposes.

2. The Governor General in Council having attentively considered the question, directs me to observe that the muáfidars of whole villages have no more abstract right to demand an equivalent in land, for the lands taken from them for public purposes, than the muáfidars of a portion of a village, or any other proprietors residing on and occupying the land required for public purposes, and one principle should rule all these cases.

3. The President and Junior Member admit that it would not be advisable to require the Officers of Government to find equivalents in *land* in all cases. His Lordship in Council is therefore of opinion that parties required to give up any lands for public purposes shall be entitled to commute the annual pension deemed equivalent to the property taken for a sum of ready money equal to 10 or 15 years purchase, as your Board may deem just and expedient.

Copy of a letter No. 1975, dated 22nd December 1860, from the Secretary to Government Punjab, to the Financial Commissioner of the Punjab.

With reference to his No. 895, dated 11th October last, approves of the draft Circular therewith received, regarding compensation for lands occupied for public purposes.

States that the submission of quarterly returns of unadjusted cases of compensation may be dispensed with in future, as proposed in his office No. 902, dated 13th October last, of which the original enclosures are returned herewith.

BOOK CIRCULAR No. III OF 1861.

Circular No. 14, dated 21st January 1861, to all Commissioners.

Circular No.	48 of 1850.	Canals.
„	26 of 1852.	Ten per cent. málikanah (cancelled.)
„	30 of 1852.	Annuity rates.
„	47 of 1852.	Reduction of rent-roll.
„	29 of 1853.	Form to be used (obsolete.)
„	9 of 1854.	Kankar and Kúra.
„	10 of 1854.	Fractions of pies.
„	43 of 1854.	Rules for calculating.
„	47 of 1854.	Jagír and muáfi holdings.
„	58 of 1854.	Authority.
„	62 of 1854.	Rent-free holdings of two lives.
„	63 of 1854.	Refunds to Jagírdars.
„	74 of 1854.	Annas and pies.
„	10 of 1855.	Further instructions.
„	30 of 1855	Annas and pies.
„	36 of 1855.	Further instructions.
„	53 of 1855.	Ditto ditto.
„	87 of 1855.	Form now in use. [led.)
„	14 of 1856.	Act XLII of 1850, (cancel-
„	33 of 1856.	European residences.
„	58 of 1856.	Payment of arrears.
Book Cir. No.	9 of 1858.	Nazaranah [sions
„	25 of 1858.	Mode of calculating pen-
„	54 of 1859	25 per cent.
„	55 of 1859.	Authority.
„	92 of 1859.	Canals, (cancelled.)
„	6 of 1860.	Delay not to be allowed.
„	8 of 1860.	Cancelling No. 92 of 1859.
„	21 of 1860.	Mode of charging.

Punjab Government Circular Memo. No. 2, dated 31st April, 1860.

Directions to Collectors, paras. 215 and 216, and Appendix XXIII (p. 484 to 486) of Directions to Revenue Officers.

Public Works Code, Appendix G.

Act No. VI of 1857.

The Circulars, noted in the margin, have been from time to time issued on the subject of the compensation to be granted for land occupied for public purposes: for convenience of reference they are now consolidated, that there may be no irregularities hereafter in practice.

Railways excepted.

2. The procedure with regard to land required for Railways, being exceptional in many particulars, is omitted from this Circular.

Sub-division of heads.

3. The subject divides itself into the following heads:—

I.—Authority.

II.—Mode of charging disbursement.

III.—Mo le of procedure.

IV.—Mode of calculating compensation.

a.—To Jagírdars and Muáfidars.

b.—To Proprietors.

c.—To Cultivators.

V.—Form of Report.

Evils of delay.

4. The attention of His Honor the Lieutenant Governor has been drawn to the circumstance that claims for compensation have been allowed to lie over for very considerable periods. The Chief Commissioner, in 1854, threatened to report to the Supreme Government any Officer who delayed, but his threat had little effect, as the procedure was so complicated, and the way of conducting business so irregular At least by this Circular the way will have been made clear. There is no reason for such delay, as the returns are simple and all submitted in original, and if payment be withheld for long periods, or the required reduc-

tion not granted at once, an act of injustice is perpetrated which reflects the greatest discredit on the Deputy Commissioner Under Book Circular No 28 of 1860, the duty of preparing these Statements may be entrusted to a practised Assistant, or Extra Assistant: a heading, No. I. D, has also been reserved for the subject in the Annual Revenue Report, and Statement No. XVII is intended to show the permanent alienation of assessable area, and permanent reduction of the resources of Government caused by such appropriations Without this precaution no idea can be formed of the great reduction of land revenue caused by Railways, Canals, Roads, and Buildings. Independent of the injustice caused to the recipients of compensation by delay, the Inefficient Balance, Balance Sheets of Land Revenue, and Deposit Sheet, are unnecessarily swollen, and a great door for fraud and false accounts opened.

I.—Authority.

5. District Officers must recollect that they have no authority of themselves under any pretence, public or private, to occupy land by way of Government appropriation. A great deal of the difficulty which has attended the subject of adjustment of these accounts has arisen from the unauthorized acts of well-intentioned but ill-judging officers. The authority is as follows :—

Book Circular No. VIII of 1860 (No. 13.)
Circular No. 48 of 1850.

I. Canal Officers can enter upon the occupation of land, which they require, immediately upon giving notice of their intention to the interested parties, and sending a specification to the Tahsildar and Deputy Commissioner.

Book Circular LV. of 1859 (No. 19.)
Secretary to Government, North-Western Provinces, June 29th, 1854.

II. The Commissioners can authorize the appropriation of land for district roads, but the area thus occupied must not be excessive, and all special or exceptional cases must be reported, through the Judicial Commissioner, for the sanction of Government, and until the amount of compensation has been fixed and accepted by the parties, and the amount of reduction settled in the Revenue Department, possession should not be taken. When from any emergent circumstances greater expedition is necessary, special sanction to proceed to immediate occupation must be obtained from the Commissioner.

Book Circular LV. of 1859 (No 19)
Circular No. 58 of 1854.
Secretary to Government Public Works Department.
Circular Memo. of Government of Punjab, No. 2 of April 1860.

III. In all other cases the sanction of the Lieutenant Governor must be previously obtained, and be applied for through the Judicial or Financial Commissioner or the Chief Engineer,* as the case may be, and the authority must be quoted in the appropriate column of the statement; and before application be made, the cost must be determined in order that the amount of such cost may be entered in the estimate.

II.—Mode of charging disbursements.

6. The authority having been obtained for the appropriation, all applications for sanction to reduction of the kistbundí of the next year, and remission of current year's balance, must be made through the Commissioner to the Financial Commissioner, as

being a strictly revenue transaction; but for the adjustment of all expenditure, whether compensation, or otherwise, the following is the rule:—

Circular No. 48 of 1850.

Appendix XXIII, Directions to Collectors.

Para. 5 of letter of Secretary to Government, North West Provinces.

I. In the case of land occupied by Canals. The Canal Department will themselves grant compensation for standing crops, that may have been injured or destroyed, houses, trees, wells and buildings. The Deputy Commissioner is always at liberty to represent to the Commissioner any case in which he finds the compensation awarded to be inadequate, or the proceeding to have been conducted in any objectionable way. Compensation for loss of proprietary and cultivating right, jagírdars, muáfidars, or talukdárs' rights, will be arranged by the Deputy Commissioner, but after sanction of this office, the amount will be recovered from the Canal Department.

Financial Commissioner's Book Circular No. XXI of 1860, (No. 33.)

Judicial Commissioner's Book Circular No. XVIII of 1860, (No. 34.)

II.—In the case of land occupied by the Local Committees, all expenditure, whether compensation for land or otherwise, will be paid by the Local Funds, under the rules laid down for controlling their expenditure. The Imperial Treasury will pay nothing: the Committees will pause ere they appropriate valuable garden or revenue-free land.

III.—In all other cases the whole compensation will be arranged by the Deputy Commissioner. If the cost of the whole work, including compensation of every kind, be under 200 Rupees, the Deputy Commissioner will adjust the expenditure himself,—if under 500 Rupees, the Commissioner can adjust it,—if above 500 Rupees, the sanction of the Judicial Commissioner, or Financial Commissioner, will be required, as the work may be Revenue or Judicial. If the work belong to the Public Works Department, the compensation must be reported to this office, and, after sanction, the amount will be recovered by the Deputy Commissioner from the Executive Department. As this office reserves to itself the right of admitting appeals on the subject of *inadequate* compensation, it is necessary that the same formality, and same statements be prepared with whatever Court rests the power of adjusting the item.

III.—Mode of Procedure.

7. In the case of land occupied by Canals, the Canal Officers, as soon as they have laid down their line, should send specifications to the Tahsíldar and Deputy Commissioner, stating the quantity of land they require, and which they have marked off, and the dates on which they require that it be vacated. They should warn the proprietors. This date should generally be that on which all the standing crops will be cut at the termination of the current faslí year. The compensation for Proprietors', Talukdars,' Jagírdars', and Muáfidars' rights, will then be arranged at once in the manner described in para. 9 of this Circular, and a copy of the report sent to the Commissioner should be furnished to the Director of Canals, to enable him to record remarks should he think proper. The suspension of the demand for Land Revenue and Village Cesses will have effect for the instalment

due on the crops. the growth of which may be prohibited by the occupation of the land. If the Canal Officers remove a standing crop, they must pay for it themselves. If the zamindars in spite of warning cultivate, no compensation will be be given. Within one week, from receipt of the intimation from the Canal Officers, the Tahsildar will serve notices on the proprietors, ascertain the proximate amount of remission from the Patwari, and, if possible, get the proprietors to acquiesce in the terms offered. He will then report to the Deputy Commissioner, and abstain from any demand of the sum proposed for remission. Within one month the Deputy Commissioner will check the report of the Tahsildar, confirm the order for suspension, and report in the prescribed form to the Commissioner, who will, after proper scrutiny, at once take the orders of the Financial Commissioner. If the appropriation of land be continually going on, the Canal Officers should, at the close of each week, send in the specification of land of which the occupation is determined on ; they should not occupy till they have given warning to the proprietors, measured and marked off the land, and sent in the specification to the Tahsildar and Deputy Commisssoner, and not delay transmission of the specification from uncertainty as to the amount of land which they may eventually require ; nor should they delay sending a specification from the smallness of the land to which it relates. If land, once taken, be no longer required, it should be at once relinquished, and the Deputy Commissioner and Tahsildar informed that it may be assessed. Check Registers should be opened by Executive Officers, Tahsildars, and Deputy Commissioners, to mark every step of the transaction, and prevent delay. It must be understood that brick kilns cannot be started in villages, or excavations made for quarrying kankar, or any other purpose, or kúra carted away by the Canal Officers or their contractors, or wells and tanks made forcible use of, without the free consent of the zamindars. They have a right to resist this, and make their own terms. The land, where kankar is to be found, can be legally appropriated in the manner described above, as well as any other land required for public purposes, but no one can be called upon to surrender personal property. If it is desired to search for kankar, the least expensive way is to take up the land for a year immediately after the crops are cut: there is no power by which the proprietor can be compelled to allow search.

Land occupied by Local Committee.

8. In the case of land occupied for the purposes of the Local Committee, or the general purposes of Government, the procedure is identical. Whether land is required for Roads, Public Buildings, Cantonments, or any other purpose, the Deputy Commissioner should not move until he has received a copy of the authority for appropriation, as indicated in para. 5 of this Circular, and a party has been deputed to point out the limits of the area required, or an intelligible survey map has been received. It is a proper precaution that every department applying for land should estimate previously the cost which will be incurred by the appropriation : this rule is absolute as regards the Local Committees; they must prepare, in due form through the Tahsildars, a specification, as described in para. 9 of this Circular, showing the area, reduction of revenue, and cost of buying out the rights and interests of occupants. Upon receipt of the proper authority, the Deputy Commissioner will be able to accept the specification prepared by his own Tahsildars, as regards the reduction of revenue,

and send in at once the proper statement; in this case the work may be said to be done *previously*. The same may be said of land required for Public Buildings, Revenue or Judicial, in the Civil Department. When the leave of Government is solicited for the appropriation, a specification must accompany the application, that the Government may be informed at what charge the land is to be taken up. It may be possible to take up land not cultivated, with no incumbrances of jagírdars' and muáfidars' right.

Land required for general Government purposes.

9. As regards land required for military purposes, such as Cantonments, or the Public Works Department, such as roads, building sites, brick fields, lime kilns, quarries, &c., it may not always be possible to ascertain before hand the precise cost; but upon receipt of a plan and statement of the area from the Executive Department, so as to obviate all doubts hereafter of the boundaries, the specification should at once be prepared by the Tahsildar under the orders of the Deputy Commissioner, he should by reference to the settlement khasrah, and the last year's Patwaris' papers, classify the area occupied into cultivated, culturable, and waste, and again distribute the cultivated area under the local sub-division adopted by the Settlement Officer when he assessed the village. He should ascertained the extent of Jagírdars,' Muáfidars,' Talukdars,' and Cultivators' rights, the value of crops on the ground, the value of wells, trees, buildings, and other investments of capital on the land; for these last he should at once, by private negotiation, or with the assistance of assessors, or of a Sultani Panchayat, form an estimate of value. The owner should be allowed in a fixed time to remove his materials, and this should be part of the bargain. In the event of a burial ground, or place of worship, or spot of local interest being occupied, proper compensation should be granted, and the feelings of the owners spared as much as possile Special orders should be solicited in such cases It may happen that by the occupation of land for public purposes, for a canal, or road, or draining cut, or cantonments, an injury may be caused to land not actually occupied. Irrigation may be intercepted, natural drainage arrested, access by pathways to the village from outlying fields be stopped, the cultivation of particular crops interdicted, for all such injuries special compensation must be assigned. The result of the Tahsildar's local inquiry will be embodied in the following papers to be prepared on the spot:—

Appendix I. No. I.—Statement of land occupied which pays Government revenue.

Appendix II. No. II.—Statement of land occupied of which the revenue is alienated to Jagírdar or Muáfidar.

Appendix III. No. III.—Statement of wells, trees, buildings, crops, &c. &c.

Care should be taken to draw on the Patwari's field-map lines showing the limits of the land to be taken up, and an excerpt of this map should be filed. These four (4) papers, with the report of the Tahsildar, complete the file.

Procedure of Tahsildar and Deputy Commissioner.

10. These statements should be prepared for each village separately, and the Tahsildar should then proceed to calculate the amount of compensation to be granted according to the rules given in para. 15. It must be remembered that barren land has a value capable of estimation, and must not be appropriated without some compensation. It is possible that the manorial rights of the village, jalkar, phalkar, bankar, or the ground rent of inhabited sites, may have to be compensated for. When the local investigation has been completed, the Tahsildar will fill up the two parganah forms indicated in para. 20, and forward them with the vernacular papers to the Deputy Commissioner, who will test the calculations and have them translated into English, or entrust the matter to a competent Assistant or Extra Assistant. The Tahsildar should, without waiting for orders, suspend the demand of land revenue proposed for reduction. All village cesses, such as Road Fund, School Fund, patwaris' fees, follow this reduction. If the Deputy Commissioner confirm the Tahsildar's arrangements, in part or whole, he should inform him, that there may be an authority for the suspension to be quoted in the tauzíh. Without delay the papers should be sent on to the Commissioner, but when the calculations have been made, and the authority for appropriation is deemed sufficient, the money for compensation should be paid over from the Inefficient Balance to the recipients *at once*, for the rules of calculation are absolute, and there can be no reason to delay the payment. If there should be any dispute among the recipients of the compensation, if the right to the land be uncertain, the money should be placed in deposit until the merits of the case are disposed of by a decision in a regular revenue suit.

Special cases.

11. But care should be taken that a double payment be not made, by remission of balance, and sanction of refund as well; as a general rule, no outstanding balances of past financial years are to be remitted on this ground; if, as should only rarely happen, the case remains undisposed of beyond the end of the financial year, the amount of balance must be entered with the other items of compensation, and the amount will be disbursed and then credited to the outstanding balances, which will thus be realized. Similarly, if so long a period elapse betwixt the report and the sanction that additional balances accrue, a further application for compensation must be made to this Office, and the amount will be disbursed and then credited to realize the balances. It must be understood that the balances of the *current* year will always be adjusted as "nominal," quoting the compensation statement. Any delays, which cause such complications as described above, are very discreditable, and must entail censure on the Deputy Commissioner.

Points to be attended to after sanction.

12. After submission of the statements, payment of compensation, and suspension of demand, the Deputy Commissioner can do no more until the sanction of Government is received, but when that arrives, he has three distinct duties :—

I.—To clear his Inefficient Balance of the advances.

II.—To note for the information of the Tahsildar and Sadr Wasil Bakí Navís, the prospective reduction of next year's kistbandí, and the remission of the *current* balances.

III.—To adjust the disturbance caused in a co-parcenary estate by the appropriation of the land of some sharers, and to take care that the reduction and remission reach that individual co-sharer who is entitled to it.

Difficulties in a co-parcenary village.

13. This last matter is most difficult,—the others are mere matters of routine. Whenever the land is divided, and separately possessed, by the several co-parceners, the party whose land is taken will be entitled either to the possession of other land in the village, or to the benefit of the entire remission on his own holding. It will be requisite not only to remit a certain amount of the Government demand, but to declare in what way the particular individual is to be compensated for the land which has been occupied. Whenever the rights in a village are according to ancestral shares, it may possibly happen that the occupation of any considerable portion of the cultivated lands will involve the partition and re-allotment of the whole lands : if such questions are not set at rest, the whole community will be disorganized. Arbitration is the mode for overcoming such difficulties, and the Tahsildar is responsible that the subject is not neglected. In his final report, acknowledging the receipt of Government sanction, he should state what has been done, and the case should not be struck off the file or received into the record room until this is certified. Likewise, the Revenue Sarishtadar and Record-keeper are responsible that no cases are placed in the record room in which are not filed receipts for compensation, acknowledgment of Tahsildars with regard to reduction of demand and adjustment of balances, and memo. from the account department of adjusted Inefficient Balance.

Land released from occupation of Government.

14. If frequently happens that Cantonments are abandoned, and the land formerly appropriated is thrown back for settlement on the hands of the Deputy Commissioner, but its position is much altered : it is cut up by roads, and encumbered by buildings, and is the property of Government if full compensation has been paid. The old proprietors should be offered the pre-emption on the refund of compensation, and a fair adjustment of the value of the improvement or the injury of the land. It is not necessary to revive other extinguished rights, such as those of the jagírdar, muáfidar, and cultivator, but this can be done if particularly desired. Land previously occupied by an old line of road should be restored by the Public Works to the Revenue Department when the new line is opened, and a deduction should be made on that account from the amount charged for the newly occupied land, as provided for in columns 13 to 16 of the revised compensation Statement No. I.

IV.—Mode of calculating compensation.

15. The compensation and reduction of demand are to be calculated in the following manner. There are four (4) separate transactions :—

I.—The reduction of the Government demand.

II.—The compensation for rights of jagírdar and muáfidar.

III.—The compensation for proprietorship of all kinds, biswadari or talukdari.

IV.—The compensation for cultivation.

No annas or pies are to be allowed in these calculations. Every thing below eight annas is to be struck out, and amounting to or exceeding that sum to be entered as 1 Rupee.

Mode of calculating reduction of Government Revenue.

16. In all districts which have been regularly settled, the rates on cultivation and culturable area (not cultivated) are recorded, but, as the different portions of the area of most villages differ in quality, the assessing at an average rate is not fair; the more prominent distinctions of irrigated, unirrigated, highly manured in fields, garden lands and groves, dofasli, bet or bangar, or whatever principal distinctive features were recorded at settlement, should be discriminated, and the particular rate applied. The assessment of the appropriated land will thus be discovered, and entered for reduction.

Mode of granting compensation to revenue assignees.

17. But if the revenue of the whole, or a portion of the area, has been assigned to any one as a revenue-free tenure, it is obvious that a reduction will not be sufficient; the value of the loss of revenue to the Government assignee must be estimated: the present policy is to purchase out all such incumbrances, and not to grant pensions, or assign the revenue of other lands. If the assignment be for more than one life, or for term of settlement, or for perpetuity, the compensation is to be calculated at fifteen years' purchase of the revenue brought out as described in para. 16 of this Circular; if the assignment be only for life, the value is to be calculated, (excluding months and days) according to the scale laid down by Government for buying out pensions,* by which a fixed graduated value is given with reference to ages *under* certain periods. The amount thus calculated is to be paid to the incumbrancer, and his right is thus extinguished. But it often happens that a nazaranah is paid annually by jagírdars, and is in fact a deduction from the revenue of the jagír: in such a case a proportionable amount of the nazaranah should be remitted and entered in Statement No. II., and the amount of compensation must be calculated after deducting the nazaranah proportionable to the area appropriated.

	Years.		*Rupees.*
Under..... ..	10	....	13
10	19	....	12½
20	24	. .....	12
25	29	....	11½
30	34	.....	11
35	39	.....	10½
40	44	.....	10
45	49	....	9½
50	54	.....	9
55	59	... .	8
60	64	....	7
65	69	... .	6
	70	or above ...	5

Mode of calculating compensation to proprietors.

18. Compensation to proprietors used to be granted in the form of an annual malikanah, but it is considered now more advisable to pay a fifteen years' purchase, which enables the full charge to be made to the particular work for which the land was occupied. The value of the share of the proprietor in the produce is to be estimated at 25 per cent., or quarter of the Government jama, brought out as decribed in para. 16 of this Circular; the result of a fifteen years' purchase of profits, calculated at this rate, is that for every hundred rupees reduction of assessment, 375 rupees is to be paid in cash to extinguish the rights of property and of cultivation.

Mode of distributing compensation.

19. Where the proprietor cultivates himself, the whole sum will be paid to him in his double capacity; when the cultivator paying the Government revenue by bachh gives a malikanah only to the proprietor, the value of that malikanah only will go to the proprietor, the rest to the cultivator; where no malikanah is paid, the proprietor will receive only 5 per cent; where the cultivator pays in kind, or at a fixed assessment as an hereditary cultivator, he will receive ten per cent, and the proprietor fifteen per cent; where the cultivator is a tenant-at-will of five years' standing, he will receive five per cent, and the proprietor twenty per cent; a cultivator below five years' standing has no claim: the Deputy Commissioner has authority, in special cases, to modify this distribution. There may be other superior or intermediate tenures which are extinguished, for instance, the talukdari per-centage allowed to the ancient, but ousted, proprietors as quit rent, or the beneficial lease granted to the ex-muáfidar or the heirs of the deceased muáfidar, or leases purchased of zamindars for a consideration, or gardens planted by non-agriculturists, or other tenures based on local custom; the twenty-five per cent must be so apportioned as to satisfy every claim,—no further charge will be admitted.

V.—Form of Report.

20. Two general statements, prepared on one sheet of paper, are required; the forms are both given in the Appendix. The first shows the whole compensation to be paid and debited to the particular department for which the land is occupied; the second shows the annual loss either by way of land revenue or nazaranah, which the Government has accepted, and a copy of which will be the warrant for the reduction of next year's kistbandi.

21. A separate statement and report is required for every separate work It only creates confusion to lump many together, and if the work, as a road or canal, be a great one, which cannot conveniently and *without delay* be reported on in one statement, the Deputy Commissioner should state, when sending up the first portion, in what sub-divisions he proposes to report it, either by parganahs or in blocks of three or five miles, or on some understood system, and each succeeding statement should be numbered alphabetically, referring back to the preceding one, that an idea may readily be formed of the extent and cost of the whole work It is a fault on one side to delay the statement until the whole work is completed, and a fault on the other to send it up so piece-meal and blended with other works as to evade all scrutiny.

Land required for private purposes.

Circular No. 38 of 1856, (page 32 of Vol. 2 of Financial Commissioner's Circulars.)

22. Public Officers or others, when providing themselves with private residences, must make their own terms with the owners of the land which they may wish to occupy. All authoritative interference is strictly prohibited; but European owners of land occupied for private residences may be permitted to redeem or compound for the land tax incident on the land, by paying down a given sum fixed according to the standard laid down in the North

Western Provinces for nazul land, and in such cases a simultaneous reduction of the jama of the village should take place.

NOTE.—The statements appended to the Circular are omitted. The present law on the subject is contained in Act X of 1870, and any portions of this Circular which still remain in force should be repealed.

X.—ALLUVION AND DILUVION.

Copy of a letter No. 1243, dated 30th August 1860, from Secretary to Government Punjab, to the Financial Commissioner of the Punjab.

I am directed to acknowledge your letter No. 760, dated 14th instant, on the subjects of Alluvion, Diluvion and Inundation, and to communicate the thanks of the Honorable the Lieutenant Governor to you for your comprehensive and discriminating treatment of this troublesome, though important question.

2. His Honor authorizes your issuing the Circular submitted for his approval with your letter at once. He subscribes to the nine points detailed; but considers that the provisions of the 9th in particular will require to be cautiously enforced.

3. The Lieutenant Governor has however some doubt if the 10 per cent. rule has not been set aside too absolutely. The fact that it saves villages from the annual harassment of assessment, and that it works well in the North Western Provinces, and (as Mr Brandreth attests,) in the Delhi territory, are much in its favor. His Honor admits with you that it is much less adapted to the Punjab rivers, but he wishes you to consider if it may not be advantageously applied to *alluvial chaks* separated from the mahals to which they belong.

4. His Honor believes that the annual labor may be greatly reduced by the adoption of this rule; and that the re-measurement of whole chaks, as contemplated by Mr. Edmonstone, will then be practicable. At all events, whatever is done will be better done in proportion to the labor saved.

5. Some of the hardship of the 10 per cent. system arose from compensation being given at *average* rates for the land cut away, which was the most fertile in the mahal. In alluvial chaks the soil will be generally of a uniform quality, and the same hardship will not be felt.

6. His Honor would therefore prefer that alluvial chaks be only subject to re-assessment when the decrement or damage, or the increment or improvement, exceed a proportion of 10 per cent.

The Circular was issued by the Financial Commissioner as No. XLII—81, dated 7th September 1860.

BOOK CIRCULAR No. XLII OF 1860.

Circular No. 81, dated 7th September 1860, to all Commissioners.

Issues detailed instructions for reporting cases of Alluvion, Diluvion, and Inundation.

The Circulars noted in the margin * have been issued on the subject of Alluvion and Diluvion, and since the completion of the regular settlements greater attention has been paid to the subject. For the last two years the result of the annual arrangements has been reported to Government in the

annual revenue report, and a distinct heading; and two statements No. II. A., are prepared to show the fiscal results of the year's operations; still however there is great variety in the practice, which, in some instances, is prejudicial. Owing to the absence of general rules, in some districts the zamindars do not obtain the prompt relief to which they are entitled; in others the interests of Government are abandoned.

No. 52 of 1850.
No. 55 of 1850.
No. 28 of 1851.
No. 1 of 1852.
No. 51 of 1853.

2. In addition to the seven great rivers* by which the culturable area of the Punjab and its dependencies is annually decreased or increased, there are numerous mountain torrents which do a great deal of mischief; besides the cases affecting the area, the crops are often destroyed and injured by inundation. Moreover, the culturable area is often rendered unculturable by the overspreading of a layer of sand, which is as injurious to the assets of the estate as actual abrasion. Again, the river alters its course, and land entered as sailaba ceases from physical circumstances to answer to that description. Moreover, the productive power of some soils is materially diminished by partial overspreading of sand, or is materially increased by a layer of rich deposits. Settlements will break down unless attention is paid to these subjects, and as the zamindars are sure to clamour for reduction unless some system is introduced, constant reductions will be made for diluvion, while the fair claims of Government will not be asserted for alluvion; such in effect has been the case in the Punjab. The returns for the last two years, previous to which no report was made, are as follows:—

Physical causes of disturbance.

* Indus, Jehlam, Chanab, Raví, Bíás, Satlaj and Jamna.

Loss by Diluvion,	1858	... ...	Rs. 51,233-4- 5
„	1859	... ...	„ 23,071-5-10
Gain by Alluvion,	1858	... ...	„ 12,360-8-10
„	1859	... ...	„ 18,502-8

The (4) four systems.

3. There are (4) four modes of treating this subject.

I. The practice, which used to be in force in the Agra Provinces, of not attending to any case where ten per cent. of the area had not been added or diminished.

Circular of Sadr Board North Western Provinces No. 16 of 1848,—introduced in the Punjab by Circular No. 52 of 1850.

II. The new practice introduced in those Provinces in 1852 of making the enquiry quinquennial instead of annual, thus restricting the period as well as the circumstances.

Circular of Sadr Board of Revenue North Western Provinces, No. S. of September 1853.

III. The practice, which has introduced itself into some districts of the Punjab, of taking up every case where increment or decrement has happened, and altering the assessment accordingly, according to the actual rate of assessment of each field lost, and the estimated value of each field gained.

Deputy Commissioner of Gúrdaspúr to Financial Commissioner, No. 199 of May 19th 1860.

IV. The chak system,—the main feature of which is, that the area of enquiry is limited to the alluvial soil, or low lands, and an annual settlement is made by

Financial Commissioner to Board, No.

500 of July 1853, and Mr. Melvill's Settlement of Ambalah District, page. 14.

applying the rates fixed at settlement for the chak to the new area. This system is only thoroughly introduced into the Cis-Satlaj Division, and the Firozpur District of the Lahore Division. It has never been properly enforced elsewhere.

Two systems not suitable to the Punjab.

4. Now of these four systems, it will be admitted that the two first are not applicable to the Punjab, as regards the great rivers; their influence for good or for evil, is felt too closely; the zemindars could not wait five years, and the ten per cent. limitation must cause great and capricious hardship. None but those who have had opportunities of personal observation, or have perused the reports of all parts of the Punjab, can form an idea of the degree to which the land of the Punjab is at the mercy of the rivers. As regards mountain streams, the ten per cent. system has been adopted with success in one Division, and appears to be expedient, as limiting a very troublesome task.

Financial Commissioner to Commissioner Trans-Satlaj States, No. 824 of May 1853. Commissioner of Cis-Satlaj States to Financial Commissioner No. 56 of May 1860.

Commissioners may select one of the two remaining.

5. The two remaining systems only, No. III. and No. IV. are therefore available for the Punjab proper, wherever conditions were not made at settlement for maintaining the ten per cent. system, in which case no change can be made without the consent of the zamindars. It is proposed to leave the choice to the discretion of Commissioners, at least till the chak system has had a full trial. For not only do the rivers vary most exceedingly in their action, but the same river changes its character considerably, as it increases in volume and distance from the hills. But uniformity of report and account are absolutely necessary, and cannot be difficult, as after all a chak is but a portion of a mahal, and the same principles should be applied in either case, for, be it remembered, that when the zamindars crave for deduction for diluvion, it is the whole *mahal*, or *whole chak*, as the case may be, that is re-assessed on its existing assets This is the principle in theory and strict law,* but in practice it should not be enforced, unless in extreme cases; ordinarily the actual increment and decrement *alone* will be taken cognizance of; the enquiries of the Deputy Commissioner should be restricted to the work of the river. He should not enhance the rates fixed at settlement on land unaffected by the river, and he should not bring under assessment culturable waste, which at time of settlement was unassessed If he do so, the owners of villages on the banks of rivers would be in a worse position, as regards their "banjar" than their neighbours, and extention of cultivation would be discouraged; at the same time he should assess land previously unculturable, and therefore unassessed, and which now by a rich deposit has become culturable.

* Para 211, Directions to Collectors.

Form of Report.

6. The form of report accompanies this Circular.—Appendix A. It must reach this office *in February at the latest*, to give time to me to sanction the alterations in the Government demand before the new Kistbandis are prepared for the ensuing year, and to sanction the remission of the Nominal Balances for the current year.

Question of Account.

7. The question of account is more difficult. It divides itself into two heads :—

I.—By what year is the new assessment to be made?

II.—To what heading in the treasury accounts are the revenues of the chaks to be credited?

Agricultural year.

8. I have no doubt that the new assessments should be made for the agricultural year *only*, commencing with the kharíf, and ending with the rabí, for it is clear that the past rabí preceded the rains which caused the disturbance, and the kharíf of the next year will be subsequent to the next rains, which will cause new, and as yet unknown, disturbances. All reports therefore must be by the agricultural year: this is indeed but following out the great principle that all village arrangements, leases, farms, transfers, kham management, and Patwarís' papers, must follow the natural year, caused by the sequence of the seasons, and not the commercial year arbitrarily introduced for convenience of English accountants.

Difficulty in preparing the Kistbandí.

9. How then is the annual assessment by the agricultural year to be harmonized with the annual Kistbandí by the commercial year? This is indeed a difficulty, and some have attempted to get over it by excluding the revenue of all alluvial chaks from the Kistbandí, and therefore from the heading of "Land Revenue" in the treasury accounts, and crediting it as "Fluctuating Revenue" under Profit and Loss. A grave error is caused by this, that the Government are deceived as to the actual amount of the Land Revenue of the year furnished by the Accountant, and considerable sums are credited to an anomalous head, and are freed from all the control of the Account Department. It is clear that any reduction of the Land Revenue demand fixed at settlement must be preceded by the orders of Government, and I cannot recommend sanction being granted to any such measure.

Mode of reconciling the discrepancy.

10. There remains the expedient of opening a new head of account, "Fluctuating Revenue," subsidiary to Land Revenue; this would be an innovation which cannot recommend. Lastly, there is the simpler expedient of bringing the new assessment on the Kistbandí, and adjusting it in the following way:—

Plan to be adopted.

11. It is clear that the rabí is quite correct and will be collected, but it is possible that the kharíf may prove incorrect, and will not be collected. But the new assessment of the kharíf will either fall short of, or exceed the preceding season: where it falls short, the balances can be written off as "Nominal" owing to diluvion; where it exceeds, the excess, which will be no large sum, can be credited to "Profit and Loss": the main bulk of the collection will thus be credited to "Land Revenue," and the fluctuation reduced to a minimum. It frequently happens that villages affected by the stream in one year are untouched for some years following, and in the case above supposed, when once the jama for the succeeding official year has been settled, it would require no alteration till a further change of area took place: and even in the case of villages yearly affected this would seem to be the most expedient plan.

Inundation.

12. We now come to the question of "Inundation." The distinctive feature is that the area is not affected, but the standing crops are totally or partially destroyed, or the sowing interfered with. This is a case for remission of demand, and not for reduction of assessment. It is also a case for the exercise of judgment in estimating the loss, more than for exact measurements. Personal and immediate inspection by qualified officers is absolutely necessary. The result will be reported in the enclosed form, Appendix B. The Commissioner has authority to suspend the demand.

Hill torrents.

13. With regard to injury caused by the action of hill torrents, it is obvious that the chak system is inapplicable. It will rest with Commissioners to determine whether the 1st or 3rd system described in para. 3 should be introduced in their Divisions. The same procedure, and report, will suffice, and if remissions are claimed, the Government have a right to claim increase when occasion offers.

Mode and time of report.

14. If the Tahsildars are in the field in October, and are followed by the District authorities in November and December, there can be no reason why the report should not reach this office in February. In those Districts which suffer from the action of great rivers, hill torrents and inundation, there will be three statements forwarded to the Commissioner, who, after scrutiny, will forward them in original to this office, with a brief abstract prepared in his office, showing the amount of remission of current demand, and reduction of assessment which he has determined on: in fact the financial result of the year's operation in the annexed form :—

Statement of Financial Result.

1	2	3	4	5	6	7	8
Name of District.	Number of villages affected.	Assessment on land gained.	Assessment on land lost.	Net Increase or Decrease.	REMISSIONS PROPOSED OF CURRENT DEMAND.		Total.
					Diluvion.	Inundation.	

Instructions to Tahsildars of Lahore and Amritsar Divisions.

15. Enclosed is a copy of the instructions (Appendix C) to the Tahsildars of the Lahore and Amritsar Divisions. They may not be applicable to other parts of the country, and are circulated more as suggestions, than as instructions.

Delay in issued orders.

16. Seven years have elapsed since the last orders were issued on this subject. The records of this office contain references and inquiries from several Divisions, and both my predecessors were very anxious to dispose of the subject, but were prevented. I cannot flatter myself that all the difficulties which surround it has been disposed of, and I can only hope that by securing uniform and punctual reports a step in advance will be made.

Jagír Villages.

Letter of Mr. McLeod to Commissioner of Lahore, No. 1858, dated May 6th 1856.

17. The zamindars in jagír villages should be dealt with precisely on the same principles as the owners of khalsa villages. They deserve the same consideration, and are liable to the same burdens. The jagírdar is entitled to any increment of revenue, and will suffer from any loss. If a jagírdar's nazaranah is a fixed proportion of his revenue, that will be liable to fluctuations also. All village cesses will follow the variations of the assessment of Land Revenue.

Adjustment of balances.

Vide para. 4 of Book Circular No. 14 of 1860.

18. Balances of Land Revenue caused by diluvion are "Nominal," and should be so entered in the Balance Statements, supposing the orders of this office have reached you, sanctioning your arrangements of the year. If owing to the non-submission of your report sanction has not been received, those balances will be "Doubtful." Similarly, balances caused by Inundation are to be classed as "irrecoverable," if orders of this office have sanctioned your proposals, otherwise as "Doubtful": in both cases, and in either contingency, no detail is required in the balance statement: it will be sufficient to enter the whole of each class of balances as one item, referring to the Diluvion Report for explanation.

Adjustment of instalments.

19. In suggesting reductions, or reporting new annual assessments, care should be taken to specify the demand for each harvest; if the land gained, or lost, be "dofasli," or bearing crops in both harvests, there will be a variation in both instalments, but not otherwise. Fractions of rupees are never to be admitted in these operations.

20. At the time of according his sanction to this Circular, His Honor the Lieutenant Governor has requested attention to two points:

I. The principle "that lands actually not fit for cultivation in former years, are liable to assessment if by alluvial deposits they become culturable and form additional assets to the Chak," is affirmed, but should be enforced cautiously.

II.—The ten per cent. rule may advantageously be applied to Alluvial Chaks, as the annual labor will thereby be greatly reduced, and the re-measurement of whole Chaks, where great loss or gain has happened, may perhaps then be practicable: it is considered preferable that alluvial Chaks be subject to re-assessment, when the decrement or damage, or increment or improvement, exceed a proportion of ten per cent. But it must be remembered that although this principle may safely be acted upon as regards the Government assessment, a redistribution of that assessment and of the land among the Khewatdars may be necessary, if the share of one Khewatdar has materially suffered from diluvion.

Directions for Tahsildars in the Districts of the Lahore and Amritsar Divisions.*

CHAPTER I.

Modified "Alluvial Chak" system.

I. At time of settlement alluvial chaks have been marked off: the settlement of the upland area of the village has been made for ten years, and is left undisturbed, but the settlement of the alluvial chak is made for one agricultural year only—a kharíf and a rabí. Separate khasrahs, shajrahs, khateonís, and khewats, have been made at settlement, and a separate jama has been assessed. But the detached area is not erected into a separate mahal, but will still remain a portion, or chak of the integral estate.

The great Rivers "Daryai kulan."

II. The first duty of Tahsildars is to ascertain whether the Settlement papers above alluded to are in existence, and correct; if in any particular village this is not the case, the omission must be supplied and the errors corrected; and if the jamas of the permanent and alluvial chaks have not been separated, this step must be taken with the permission of the Deputy Commissioner, and special rates fixed for the chak. Where the alluvial land is below (2) two per cent. of the whole culturable area, no division of chaks need be made, and where all but (2) two per cent. is alluvial, the whole area of the mahal should be included.

III. The names of the two chaks are as follows:—

I. Chak Banjar, Utar, or permanent upland chak.

II. Chak Sailaba, or Hetar, or alluvial chak.

Masonry pillars of three sides should define the boundaries of the separate chaks: only one entry should be made on the kistbandí and tauzíh for the two chaks, but under the total assessment of the mahal, should be shown the detail,—"Fixed" assessment so much, "Fluctuating" so much. Annas and pies are always to be excluded.

IV. At the close of the rains of each year, the culturable area of the alluvial chak will be re-assessed for two harvests, the kharíf, and the subsequent rabí.

V. In the month of September, the patwarí will proceed to the spot, and compare the fields of the chak with the khasrah and shajrah of the last year, and note what changes have taken place since the last survey. They can be of six (6) kinds, three of which *A* are prejudicial, and three *B* advantageous to the owners of the soil

A I. Where a portion of the assessed area has been cut away bodily by the action of the stream.

II. Where a portion of the above area has been so over-spread with sand, or cut up by torrents, that the land has ceased to be culturable, and must be classed as waste.

III Where the effect of the sand, or the torrent has not rendered the area entirely waste, but has materially diminished the productive power.

B I. Where a portion of entirely new culturable land has been thrown up by the stream.

* This formed Appendix C. to the Circular; Appendices A and B., containing forms of Statements, are omitted.

II. Where a portion of land, which was previously classified as unculturable, has, by being cleared of sand, or being over-spread by good soil, become culturable.

III. Where the productive power is increased and capable of bearing a higher rate of assessment.

VI. It was originally contemplated that the whole of the alluvial chaks should be annually re-measured, re-mapped, and re-assessed, but it is feared that this will prove a work beyond the powers of the parganah officials. A modified arrangement is therefore proposed, but periodically, perhaps at the close of five years, if the chak has undergone year by year increment and decrement, it may become necessary to re-measure according to the present scheme. The patwari will, with a pencil, on the field map of the chak, draw a red line to mark the extent of the area affected in either of the ways described above; where only a portion of a field has been affected, he will measure the remainder, and in a new statement, according to Form No. I, will enter the details, and where an entire field has been affected he will enter such particulars only as apply to that case; he will then make a khateoni of the land form II, which has become useless, shewing the area and the assessment. As regards the new land acquired in either of the ways described above, he will prepare a new shajrah and khasrah in the ordinary method, and state the description of soil of each field, and put up sticks to mark on the area the points at which the alluvial increment commences, in order that the officer deputed to revise his proceedings may see, at one glance, the extent of the new area. The Tahsildar and Kanungo will then proceed to the spot, and test the correctness of the measurements in the usual manner, and form an opinion as to the capability of the soil: they will then deduct the amount of culturable area lost by diluvion, and will add the amount of culturable area gained by alluvion, and bring out a new total culturable area of the alluvial chak, and then proceed to estimate the value of the newly acquired area, and ascertain how much is capable of bearing the full assessment rate, and how much must be assessed below those rates, because it will often happen that if the full rates are assessed at once on new land, the zamindars will not undertake the cultivation. It must be understood that under no circumstances can rates be assessed above those fixed at settlement, and judgment must be used in fixing them below those rates according to the actual capacities of the soil.

VII. The Tahsildar has two duties :—

I. To satisfy himself as to the correctness of the new area.

II. To propose a new assessment. The zamindars cannot refuse to take up the new land, and pay revenue only for the old land: the Government would always lose by such an arrangement. The settlement of the chak is yearly; if the zamindars refuse to contract for the chak with its new area and assessment, a farmer must be looked for, or other arrangement made. The Tahsildar will take care to bring under assessment all the culturable area whether it is cultivated or not, but he will see that an excessive rate is not imposed. It must also be borne in mind that land entered as unculturable at settlement ("*banjar kadím*") should not be assessed if brought under cultivation since settlement, as that would place

river villages in a more unfavourable position than other villages; but "chanchar" or lately abandoned land may fairly be assessed. This is however a question of judgment in each case. On the other hand, when a low rate has been assessed the first year, care should be taken that the capability of the soil should be considered again the second year, and full rates properly assessed. Thus gradually the newly acquired alluvial land will be brought up to the level of the whole chak, but the rates fixed at settlement must not be exceeded, unless the soil has been sensibly altered for the better. The Government are fairly entitled to demand revenue from land which has only lately become culturable, though it may have for years emerged from the river and remained in an unculturable state. The new assessment should carefully distinguish the demand of the rabí and kharíf; the increase or reduction should not be needlessly divided equally betwixt the two fasls.

VIII. The Tahsildar should commence his part of the operation by 15th October, and dispose of it by the end of the month, and despatch the papers to the Deputy Commissioner.

IX. The following papers have to be prepared by Tahsildar and and Patwari; they are of two kinds:

A. Connected with Diluvion.

B. Connected with Alluvion.

A. I. Measurement Statement form No. I.

II. Khateoní form No. II.

B. I. Khasrah form used at Statement.

II. Field map ditto.

III. Khateoní ditto.

To these will be added a statement of the new assessment, according to form No. III for each chak. In some chaks cases of diluvion, in others cases of alluvion, and in some, cases of both will occur, but the Tahsildar will, in all cases, make only one statement of new assessment for each chak. He will mention the date of his own local investigation, and the date on which the Assistant or Extra Assistant Commissioners subsequently visited the spot. He will note the former area, and jama, the amount of diluvion of this year, as well of alluvion, the actual area, description and capability of soil, and the amount of proposed new jama.

X. As soon as the Tahsildar has completed the partal of all his chaks, he will inform the Deputy Commissioner, who will depute one of his Assistants, or Extra Assistants, to inspect the villages along the rivers. In two or three days the whole can be inspected, and here and there measurements should be tested. Having completed his inspection, the Assistant should then and there prepare the statement, which is submitted to the Commissioner, in order that if any difficulties arise in the preparation, they may at once be removed by personal reference to the Tahsildar. The inspecting officer should proceed regularly along the banks of the river from one end of the parganah to the other, and enter the villages in the statement in the order in which he visited them.

Appendix A. of Circular.

CHAPTER II.

Inundation "Panee mar."

XI. It often happens that the crops of zamindars are destroyed or injured by sudden inundations, without any alteration being caused to the culturable area. Immediately on the occurrence of such a disaster, the Tahsildar should inspect the crops alleged to be injured, measure the area by the agency of the Patwari, fill up statement in form IV, and ascertain from the Settlement record the assessment rate of that area. He should propose a proportionable remission of the Government demand, as in calamities of season such an amount of indulgence is shown. If the crops have not been destroyed, but only injured, the Tahsildar should propose what to him appears to be a fair remission. Such cases will be reported in the form No. V, and, if possible, an Assistant, or Extra Assistant, should be deputed to test the recommendation of the Tahsildar, and certify the extent of the calamity. The area may have been immersed at the time of sowing, or the crop entirely or partly swept away at any stage of its growth: inquiries should be made while the area is under water, and again, when the waters have subsided: dates, are important here as the cultivators might have tilled, or perhaps did so. The Deputy Commissioner will report the result of his investigation in the form of Appendix B.

XII. In the case however of the crops being injured by the escape of water from canals, and the bursting of irrigation bunds, no remission will be made from the Government demand, but assistance will be given to the zamindars to recover from the Canal Department or the owners of the embankment, not only the amount of Government revenue, but the value of the whole crop which has been injured by accident or carelessness.—*Vide new edition of Directions to Collectors, Appendix XXII, page* 483.

CHAPTER III.

Mountain torrents and marshes. (Nuddee, Nala, Khoord wa chumb.)

XIII. Injury is often caused to the area of villages by mountain torrents, which are not fed by the snow of the Himalayas like the larger rivers, but are swollen by rain, and rushing down do an immensity of mischief. No chaks can be marked off in these cases. Of this class of streams are the Deg, Basantí, Sakhí, Kiran, Gagar, Markanda, Sarsútí, and others. Area entered as culturable, and assessed at settlement is entirely cut away, or turned into unprofitable waste; occasionally also by the action of these torrents waste area is made culturable. The extent of culturable area actually washed away, or overspread with sand, should be measured, and remission proposed according to the rates of each kind of soil. In the same way, when new land is thrown up, or land formerly unculturable is covered with a deposit, and rendered culturable, it should be assessed at fair rates, suitable to the quality of the soil. The statements should be precisely the same as those mentioned in Chapter I, but on a separate sheet, and the same procedure is required as regards partaling and inspection. When the change caused by the action of the torrent is very inconsiderable—less then (10) ten per cent.—no inquiry or report need be made, at the discretion of the Deputy Commissioner in each case.

XIV. To ensure the reduction or remission, sanctioned by authority, reaching the several members of a village community, it is very important that in every diluvion case a statement be filed by the Patwari showing how the remission has been distributed among the several holdings which suffered loss. Any adjustment of shares in a co-parcenary community, which may be rendered necessary by the diluvion of the holding of any shareholders, must be arranged by the Deputy Commissioner.

XI.—River Boundaries between British and Foreign Territory.

Extract paras 1, and 9 to 12, of letter No. 3631, dated 24th August 1860, from Deputy Secretary to the Government of India, to the Secretary to Government of Punjab.

I have received and laid before the Governor General in Council your letter dated 27th ultimo, No. 533, together with its enclosure, submitting, for decision, the general question of river boundaries between British and Independent territory.

9. The Governor General in Council directs me to observe, that the Officiating Financial Commissioner is not correct in assuming that as betwixt Sovereigns, the only safe rule of practice is, that the main river should be the boundary, irrespective of all other considerations. The rule is such only in cases of alluvion, and not in those of avulsion, and the present case is of the latter kind. When a boundary river suddenly quits its bed, and cuts for itself a new channel, it ceases to be the boundary, and the Government which ruled over the territory cut off by the change in the river continues to rule it.

10. The above principle has been laid down in the case of the rivers which are in some places to form the new boundary between Nípal and Oudh It has been ruled that these rivers shall continue to be the boundary if their encroachments on either side are only gradual, and in the ordinary course of alluvion and diluvion, but not in the case of sudden changes in the bed of the deep stream, whereby land capable of identification is cut away.

11. His Excellency in Council directs that the case of Kachhi Chuán may be decided on this principle, with which the decision given in the case of Kachhi Kasmor is consistent.

12. The question of the proprietary right in land, I am to add, is a totally different one, and remains unaffected by the decision on the general question. In either case the present proprietors of Kachhi Chuán would continue to possess the island: but under the Lieutenant Governor's proposals they would become subjects of the Nawab of Bhawalpur, whereas under the principle now laid down they will still continue subjects of the British Government.

Copy of a letter No. 1038, dated 8th March 1861, from Under Secretary to the Government of India, to the Secretary to Government Punjab.

Your letter No. 533 dated 27th July 1860.

Reply of Government dated 24th August 1860.

With reference to previous correspondence noted on the margin, regarding the question of river boundaries between British and Independent territory, I am directed by His Excellency the Viceroy and Governor General in Council to transmit, for the information of the Lieutenant Governor, the accompanying extract (paras. 22 and 23) from

a despatch of the Secretary of State for India, No. 3 of 16th January 1861.

Extract from a dispatch from the Right Honorable the Secretary of State for India, in the Political Department, No. 3, dated 16th January 1861.

River boundaries between British and independent territory.

22. I approve of your Excellency's decision with regard to the boundary question caused by a change in the course of the Indus, and of the rules you have laid down respecting river boundaries generally between British and Independent territory.

23. You very properly make a distinction between cases of alluvion and those of avulsion. In the former cases the main stream should be the boundary, irrespective of other circumstances, whereas, on occasion of sudden and violent changes in the course of a river, the boundary question in each case should be decided on its own merits.

XII.--CORRECTION OF THE SETTLEMENT RECORD IN CONSEQUENCE OF JUDICIAL PROCEEDINGS.

Extract from letter No. 927, dated 15th August 1859, from Secretary to Government Punjab, to Financial Commissioner Punjab.

3. Without adverting to particular cases, it appears to the Lieutenant Governor that it is wiser to adhere to those general terms in which our legislation on those varied rights has heretofore been conceived. The Punjab Civil Code speaks of them in the following language (page 63. para. 13). An hereditary cultivator "*may* also possess the privilege of cutting timber, digging wells, and making gardens, but it is requisite that the exercise of these privileges *should have been guaranteed at the settlement*." In dispute, therefore, the first thing is to refer to the settlement record prepared on the spot, with the express purpose of defining and recording the diversified types of existing rights, and of obviating the necessity for an indiscriminating legislation, which could not be adapted to the varieties of the case. Wherever the rights of cultivators have not been recorded, the record is obviously defective: disputes must then be judicially settled as between man and man according to the evidence procurable, and the result recorded for future guidance.

Copy of letter No. 988, dated 14th July 1860, from Secretary to Government Punjab, to Financial Commissioner Punjab.

I am directed by the Hon'ble the Lieutenant Governor to reply as follows to your letter No. 602, dated 2nd instant, regarding the admission of regular suits for the amendment of the settlement record.

2. Clause 6, Section II, of the Code, provides for the hearing of such suits by the Commissioner, and Mr. Melvill appears to have acted in accordance with it at Ambalah. But His Honor approves of your issuing detailed and definite instructions on the subject on the basis of the reports made by the Commissioners of the Cis and Trans-Satlaj States.

3. The Lieutenant Governor, whilst admitting that much may have been erroneously recorded in, and much omitted from, the settlement papers, is still of opinion that changes should subsequently be made with extreme caution, and only on the clearest proof of error.

But when error is proved in entries not made under the judicial authority of the Settlement officer, His Honor sees no cause to withhold correction.

4. The summary enquiry regarding the existence of error (described by Mr. Melvill), and the sanction of the Commissioner to the admission of the regular suit should still, His Honor considers, be preliminary to such suits being brought upon the file.

5. The period of limitation, namely 12 years from the report of the settlement, appears to be fair and reasonable.

Financial Commissioner's Book Circular No. XXXIII of 1860, is founded upon this letter. The Circular has since been repealed by Act XXVIII of 1868.

XIII.—PROHIBITION OF SUB-LEASES OF VILLAGES.

Copy of letter No. 1157 dated 4th July 1850, from Secretary to the Board of Administration for the Affairs of the Punjab, to Secretary to the Government of India with the Governor General.

I am directed by the Board of Administration to forward to you, to be laid before the Most Noble the Governor General, the accompanying correspondence* with the Commissioner Cis-Satlaj States, on the subject of sub-leases; the practice being common for proprietors of villages who have entered into contract with Government for the payment of the revenue, to sub-let their lands to bankers, or other persons unconnected with the village community.

2. You will observe that the Board are strongly averse to subletting, considering that villages sublet are almost certain to deteriorate, and that, as a consequence of deterioration, loss of revenue must ensue. Since the expression of their opinion in my letter to the Commissioner of the 12th March, the question has been brought under further consideration by the Commissioner's letter of the 1st of June, and the Members of the Board have recorded Minutes containing their views upon it.

3. I have the honor to forward copies of the Minutes, and to state that the Board would be glad to have the permission of His Lordship to prohibit sub-leases, that being the course which appears to them to be expedient; while it is at the same time one which they hesitate to adopt without the authority of the Government of India.

Copy of letter No. 1414, dated 30th July 1850, from Secretary to the Government of India with the Governor General, to the Board of Administration for the Affairs of the Punjab.

In reply to your Secretary's letter dated the 4th instant, No. 346, and its enclosures, on the subject of prohibiting sub-leases, I am directed to acquaint you that the Most Noble the Governor General concurs in the opinion of your Board against the practice of subletting, and authorizes you to prohibiting accordingly.

NOTE.—This rule is still in force in the Punjab.

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* Not printed.

XIV.—MUTATION OF NAMES IN THE REVENUE REGISTERS.

Extract from a letter No. 1466, dated 4th October 1860, from the Secretary to Government Punjab, to the Financial Commissioner of the Punjab.

In reply to your letter of the 17th ultimo, No. 829, I am directed to inform you that the Hon'ble the Lieutenant Governor approves of the draft Circular therewith submitted on the subject of *dakhil kharij* or mutation of names, with the exception of the para. regarding the levy of fees, on which His Honor will postpone his orders until the submission by you of the report called for by my letter No. 421, dated the 28th March last, relative to the experimental imposition of registration fees on this account in the Amritsar district.

NOTE.—The Circular referred to was the draft of Financial Commissioner's Book Circular No. XLVII—96, dated 13th October 1860. The paragraph regarding the levy of fees was omitted in the Circular, which is here subjoined.

BOOK CIRCULAR No. XLVII OF 1860.

No. 96, dated 13th October 1860, to all Commissioners.

With the sanction of Government, Book Circular No. 36 of 1860 has laid down the only mode in which a transfer of land can be enforced on occasion of balances of land revenue.

Issues instructions in regard to the mutation of names of landed proprietors and assignees of land revenue whose grant exceeds a life tenure.

2. Book Circular No. 33 of 1860 has laid down the circumstances under which the Settlement Record can be amended. Book Circular No. 46 of 1860 has defined the limitation, procedure, and nature of Regular Revenue Suits, by which landed property may be transferred from parties properly impleaded to the plaintiff.

3 Book Circular No. 58 of 1859 has forbidden the sale of ancestral landed property in execution of decrees without the sanction of the Financial Commissioner. Similar orders were issued by the Judicial Commissioner in his Book Circular No. 46 dated 30th October 1858.

4. I trust, therefore, that no cases will ever occur again in the Punjab of landed property being forcibly transferred by any Officer in the Revenue or Judicial Departments, except under the rules quoted above. In some districts the practice has sprung up from want of attention to the subject, and the little value which is attached by proprietors to their newly-recorded rights.

5. It remains to draw the line sharply betwixt a transfer of land (*intikal zamin*), and a mutation of names (*kharij dakhil*). One is the *act* of a Judicial or Revenue Officer armed with certain powers; the other is the entry in a book of a Registrar, recording an admitted fact, or the result of a separate judicial or revenue order. There may be occasions when names are added without removing another name, or names are removed without adding another. This is the case when the names of mortgagees, farmers, balance-transferees, trustees, managers, or parties in possession, (*kabiz*) are added or removed. But generally the procedure implies the substitution of a name or names for a name or names removed.

6. The existence of every kind of property or interest in land brings with it the necessity of maintaining registers for noticing the changes, which are the result of the operations of time, necessity, or caprice. The parganah Kanungo, and the village Patwarí, are the responsible recorders of these mutations under the orders of the Tahsíldar and Deputy Commissioner. It is presumed that the records prepared at settlement are more or less correct; if any palpable errors are detected, and admitted by the parties concerned, the Deputy Commissioner can order the mutation to be made, but this must be done with caution, and the safest way is to adhere to Book Circular No. 33 of 1860, which provides that a regular revenue suit should precede a correction of the settlement record.

7. Mutations of names are of four (4) kinds :—

I. Lambardars—involving a change in the malguzarí register at the Sadr and Tahsíls

II. Pattidars—involving an entry in the diary of the Patwarí, and the last of his annual papers, and in the Kanungo's mutation register.

III.—Talukdars—or enjoyers of the superior* right, involving a change in the register at the Tahsíl.

* Page 98, Directions to Settlements Officers.

IV. Jagírdars and Muáfidars on a grant exceeding a life tenure—involving a change in the registers of assignments of land revenue at the Sadr and Tahsíl.

8.—The causes of mutation are three-fold :—

I. The hand of God.

II. The order of Judicial or Revenue Courts—(sales and balance, transfers or decree in a regular suit.)

III. The private consent of parties.

9.—The hand of God is evidenced in all cases of inheritance : such incidents are provided for in the settlement records, or the register of revenue-free holdings. The Patwarí, or the heirs, are bound to notify the fact (under a penalty of discretionary fine for failing to do so,) to the Kanungo, who will report to the Tahsíldar the names of the parties on whom, as next of kin, the inheritance devolves. After the lapse of fifteen days from the Patwarí's report, in all non-contentious cases the Tahsíldar will himself order the mutation of names in the case of Pattidars and Talukdars, which will be effected by an entry on the Patwarí's diary, and the Kanungo's mutation register. In the case of lambardars, and jagirdars, and and muáfidars, he will report to the Deputy Commissioner with his suggestions : after consulting the settlement record, or register of alienations of land revenue, the Deputy Commissioner will issue the necessary order, which will be executed by an entry in the mutation registers. When the inheritance in cases of Pattidars and Talukdars is disputed, the parties who are in possession will be entered, and the objectors referred to a regular revenue suit, unless the objectors then and there file their petition, when the mutation may be stayed until the case is decided Were mutation to be stayed without this precaution, there would be no certainty that a suit would be filed.

10. The second class of cases arise from the orders of—

I. The Civil Court.

II. The Revenue Court in its executive or judicial capacity.

These orders must be distinct, must have been executed, and the mutation of names will follow as a matter of course. There is no occasion to prepare a separate misl: the mutation of names will be ordered, after possession has been granted, by the Officer who decides the original case.

11. The third class is sub-divided into—

I. Sale.

II. Gift.

III. Mortgage.

Such cases can only occur as regards Pattidars and Talukdars. The office of Lambardar, or the assignment of revenue, is not at the disposal of private parties, though the transfer of a patti may often entail a change of the Lambardarí. Where a mutation of names is required, both parties must attend at the Sadr or Tahsíl in person or by agent, their persons must be identified, or their powers verified, and the only question is "the truth of the transfer." If the Patwarí and Lambardars cannot certify this *as a fact accomplished*, if there is any impediment in the way, or any doubt, the case must be struck off without further inquiry. It is here that Revenue Officers so often mistake their duty, and mix themselves up with the *transfer*, when their business is only with the *mutation* of names.

12. There are three exceptions when the Revenue Officer must use his discretion, whether the case be pending in the Tahsíl or Sadr.

I. When a share in a co-parcenary tenure is transferred to a *stranger*.

II. When the property has been hypothecated as security for any Government concern.

III. When the transferred property belongs to a minor, an idiot, or other incapacitated individual.

In all these cases the mutation must be stayed, and the parties warned that the transfer is not recognized by the Revenue Courts. The occupancy of the transferee will be illegal, but a regular revenue suit will be required to oust him, should he maintain his position at all hazards.

13.—The reason for the refusal of the mutation in the first case is based on the Circular of the Board of Administration, No. 28 of 1852. The right of pre-emption is not to be evaded: the sanction of the Commissioner must precede all such mutations, and within a period of three months from the transfer taking place, or being made known to the parties concerned, the validity of the transfer may be disputed by a regular revenue suit under para. 11, part I., Chapter XIII of Punjab Civil Code.

14.—When by a deliberate act of the proprietors an estate has been hypothecated as security for a farm or other Government contract, it would be stultifying ourselves to allow a fraudulent mutation of our own registers. Registers of hypothecated property should be maintained for reference both at the Sadr and Tahsíls. The transferee can, however, be dispossessed only by a regular revenue suit.

15. The reason for refusing mutation in the last case is, that the Revenue Courts will not in any capacity lend themselves to an infraction of the Punjab Civil Code, by Part I. Chapter VIII, of which, a certain protection is thrown round minors, and by analogy other incapacitated land-owners. It is stated above that the presence of the parties or their agents is necessary, but an incapacitated party is unable to attend personally or instruct an agent, and, therefore, is not a consenting party. To cancel any transfer of this kind a regular revenue suit must be brought by the nearest friend of the incapacitated party.

16. In para. 5, allusion is made to certain cases where names are entered not in the place of, but in addition to, others. Mortgagees pray to have their names entered as a record of the transaction; farmers, balance-transferees, trustees, and managers are entered for the convenience of parties. All these parties possess an estate or interest in the land, rather than the land itself; the real proprietor's name is recorded, but he is not in the management, though in possession. But in the case of absent proprietors another party is in actual possession *(kabiz)*: the dormant, though not extinct, right of the real owner is recorded, and, without the consent of parties, or a regular revenue suit, no change of possession can be made: the entry of the name is the extent of his interests Should he return, and the party in possession consent to relinquish the land, the Patwarí should report the fact, and the Tahsíldar can order the mutation. No provision is made for lessees, as by Circular 49 of 1850 they are prohibited in the Punjab.

17. The procedure in each class of cases varies, and it is not desirable to impose any uniformity of practice. Mutations of Lamberdars, Jagírdars, and Muáfidars, and mutations arising from the orders of Judicial or Revenue Courts, must be reserved for the order of Deputy Commissioner, or a qualified Assistant or Extra Assistant. All other non-contentious cases may be disposed of by Tahsildars, if they are considered qualified. Contentious cases must be referred by Tahsildars for orders. The only cases which require the sanction of the Commissioner, are mutations of names in the favor of strangers under Circular No. 28 of 1852.

18. It is the general practice to issue a proclamation calling for objections, and a certain period (15 days) is fixed within which the mutation does not take place. There is no objection to this practice as giving time for the Kanungo, Patwarí and Lamberdar, to certify the fact of the transfer, and the absence of any of the three vital objections. The non-appearance within that period does not bar the remedy of a regular revenue suit to any objector who may object to the transfer, or the formal mutation which followed. But the objection will not be remedied at the expense of an innocent transferee, who must be reimbursed by the transferer for any loss that he has suffered.

19. If attention be paid to these rules, no injustice will be perpetrated on any one. If a widow, or a party having only a life interest, transfers a property, it is not the duty of the Revenue authorities to stay the mutation, but a regular revenue suit will at once secure the remainder to the heirs. If one of many attempt to effect a mutation of names of many, in an undivided estate, without their authority, the names of those only who consent in person, or by agent, will be removed: the entry in such a case on the Patwarí's register is the index of the extent of the property, as there can be no separate possession proved, and the transferee must file a regular revenue suit to compel the removal of those names. If fraudulent personifications, or fraudulent transfers, take place, to anticipate a decree of Court, or evade a just claim, a regular revenue suit will secure a judgment on that issue.

Nos. 27, 28, 29, 30.

20. In the Annual Revenue Report certain headings, and a Statement XXI A., are reserved for remarks on the transfers of property, which have taken place in the last year. These transfers will generally be made known by the mutation which ordinarily follows. The value of land in the market is evidenced by the prices received for sales or mortgages. If owing to pressure of assessment the land-owners are driven to sell or mortgage, it is the bounden duty of the Tahsildar and Deputy Commissioner to make immediate inquiries: it is not sufficient to abstain from direct interference in bringing about transfers: they must take timely warning from their spontaneous occurrence. If the assessment is the cause, the assessment must be reduced: it is only putting off the evil day to allow such things to go on.

21. Finally, as shown in Book Circular No. 31 of 1860, para. 5, once a year the Kanungo and Patwarí, at the time of the preparation of the annual papers, must hunt up all unreported transfers, where the parties have not applied for mutations. In every such case the Kanungo, by report, should move the Tahsildar to take necessary steps to ascertain the fact, and record the mutation, and if he fail to do so, he is liable to fine or dismissal. Thus each year the record of the status of property will be correct up to date. Years may elapse before this state of correctness is arrived at, but till that has been attained, the system will not be complete.

The levy of fees on registry of the division * or union of estates, or on the transfer of the whole or part of an estate by deed of sale or gift or otherwise, is provided for by Sections 9 and 10 of Regulation XXIII, 1803, applicable to the Ceded Provinces (extended to the Conquered Provinces by Regulation VIII, 1805, Section 17), and Sections 2 and 3 of Regulation XV, 1797, applicable to Benares. Such fees had not at first been levied in the Punjab, but on the transfer of the Dehli territory to the Punjab, they continued to be levied in some districts in that territory. On a representation made by Mr.

* Inapplicable to imperfect partitions—*Directions for Collectors, para.* 129.

Cust, Commissioner of Amritsar, the practice had been introduced in that Division as an experiment, and in 1863 the Lieutenant Governor directed that it should be generally adopted throughout the province.—*(Financial Commissioner's Book Circular No. XXXIII—77, dated 22nd September* 1863.*)* In 1869 the Lieutenant Governor made the fees thus levied applicable to mutations consequent upon inheritance *(Financial Commissioner's Book Circular No. V—29, dated 8th April* 1869*)*, but as it was pointed out in para. 129 of 'Directions for Collectors' that under the Regulations no fees were leviable upon successions, the legality of this order is very questionable. The order of 1863 was of course warranted by the Regulations, but as regards union and division of estates, it must be remembered that the latter is not liable to occur in the Punjab.

XV.—PARTITIONS.

No. 1580, *dated 19th October* 1860.

Approves the draft Circular herewith returned.

Signed R. H. DAVIES, *Secretary.*

This is endorsed upon Financial Commissioner's No. 879, dated 4th October 1860, submitting, "for sanction, a draft Circular on the subject of partitions." The Circular is No. XLVIII, dated 20th October 1860.

BOOK CIRCULAR No. XLVIII of 1860.

No. 97, dated 20th October 1860, to all Commissioners.

Issues instructions in regard to imperfect partitions. No. 30 of Statement of Revenue Business.

In the Annual Revenue Report for 1856-57 and 1857-58, para. 63, Mr. McLeod remarked, "that he would altogether be opposed to conceding in the Punjab the right to demand a complete Batwára." There is no doubt of the soundness of this policy. In settled Districts no new mahals are to be formed; any special cases may be reported to this office. It must be remembered, therefore, that the principle of joint responsibility, and of re-distribution of the assessment during the term of settlement, must be enforced with great discretion and consideration for the interests of the industrious khewatdars, for they have no means of freeing themselves from the chain which connects them with their less prosperous co-parceners.

2. It remains to regular the practice of "incomplete partition," (*Taksím ghair-mukammil*) by which process zamindari, and imperfect pattidari tenures become pattidari, or, using a more familiar formula, common land is divided into separate holdings among khewatdars. An alteration is caused in the settlement papers, and

the sanction of the Commissioner is necessary whenever the partition is of such a nature that the tenure is altered; but when parties entered in the same khewat separate their interests, no material alteration is caused, and the Deputy Commissioner can himself dispose of the matter.

3. It should be remembered that partition is an administrative operation with no judicial character. In the 'Directions to Collectors' it is entered among the duties which devolve on that officer in his capacity of Registrar of landed property. It is persumed that the extent of the shares of each party are known and admitted. If not known, owing to an omission or mistake in the record, the record must, with the sanction of the Commissioner, be corrected; if the extent of the shares is not admitted, or is contested, the case must be struck off the partition file, and the parties referred to a regular revenue suit. Great injustice is caused by a summary decision of rights in land irregularly started, and imperfectly investigated, as a subsidiary point of a case of partition.

4. When the shares are known, admitted or decided by a competent court, the officer to whom the file is entrusted should, after examining the administration paper of the village, rule the mode of carrying out the measures, record a vernacular proceeding, inform all the parties concerned, and then pause for one week to allow objections or appeals to be offered. As far as possible, cultivation should not be disturbed; the village site is never to be divided; shares in wells should be considered; it is not sufficient to divide the area fairly, if the agricultural conveniences are not at the fair disposal of both parties.

5. A majority may object to the measure, or individuals may approve of the measure, but dispute the extent of shares, or demur to the *modus operandi*: it is of no use wasting the time of the Government Officer until these points have been decided. As it is now, after a tedious operation the whole procedure is vitiated by an "*in limine*" objection, which the appellate court cannot pass over. If the majority of the khewatdars do not agree to the partition, it cannot go on;—if the shares are not admitted, the case must be struck off;—if the "*modus operandi*" is objected to, the objector must appeal within eight days, and notify that he has done so, otherwise the proceeding will not be stayed,—if an appeal be lodged the case will be stayed for thirty days, and unless an order of the appellate court is received, will then be proceeded with.

5. The actual partition can be conducted by the Patwarí, by arbitrators, by the parties themselves, or in the way which appears most convenient. There is never any occasion for an Amín.

7. The result must be distinctly recorded, so as to leave no room for ambiguity, or future litigation; the parties must be informed, opportunity given for appeal, and then the fact should be recorded on the Patwari's diary, who will modify the next annual papers. If the constitution of the village be altered, the sanction of the Commissioner must be solicited in the statement accompanying the translation of this Circular, and can be sent in the vernacular.

8. When that sanction has been received, the settlement record will be amended by an explanatory proceeding; possibly new Lambardars will be required, and any how instructions should be given to the Patwari as to the mode of preparing the next year's papers. Where the constitution of the village is altered, effect should be given to the partition only at the close of an agricultural year.

Extract from a letter No. 1131, dated 13th August 1860, from Secretary to Government Punjab, to the Financial Commissioner for the Punjab.

It is an admirable Circular. It should be printed and circulated.

This letter was the reply to Financial Commissioner's No. 709, dated 31st July 1860, submitting the draft of Book Circular No. XXXVI of 1860. The Circular was as follows :—

BOOK CIRCULAR No XXXVI OF 1860.

Circular No. 70, dated 16th August 1860, to all Commissioners.

Issues detailed instructions in regard to the mode of enforcing the collection of the Government Revenue.

The settlements of the Punjab being nearly completed, ample reductions having been granted, and the general impression being that the existing assessments are fair, and under ordinary circumstances capable of being collected, the time has come to prescribe more particularly the mode of enforcing these collections in a regular and legal way, and with as little injury as possible to the unfortunate, as well as the dishonest defaulter.

2. *Minor Processes.*—The minor processes are well known and simple. If the issue of a dastak be not sufficient, the person of the individual defaulter, or his chattels, may be proceeded against. Where the defaulter is impoverished, very little advantage will be gained by securing his person, and no chattels will be forthcoming. There are, however, exceptional occasions, when these processes may succeed. The Deputy Commissioner has authority to adopt them without further report, but he must obtain sanction of the Commissioner for the diet of the imprisoned defaulter, and he must be careful that the attachment of personalty takes place according to law.

3. *Process against the land.*—Assuming that the assessments are moderate, the Government looks to the land as the best security of the revenue. It is presumed that the defaulter is in possession of a property which he is desirous to keep, and others are not unwilling to acquire. In the case of a mahal, therefore, the Deputy Commissioner should arrange a farm, and in the case of a patti, or portion of a mahal, which has a separate entry on the khewat, he should arrange a transfer to a solvent shareholder, or if no solvent shareholder come forward, it is legal, though not expedient, to arrange a farm of the patti to a stranger,

4. *Joint responsibility.*—The theory and procedure of a transfer to a solvent shareholder are herewith explained. The majority of estates are held on a co-parcenary tenure under one or other of the known developments. Of this tenure joint responsibility is the main feature and keystone. Upon it is based the right of pre-emption,

and an essential incident of it is, that when a shareholder defaults, some one or other of his co-parceners must take up his property and responsibilities, or the whole body will be proceeded against.

5. *Transfer of patti to a solvent shareholder.*—In the khewat the extent of the rights and responsibilities of each shareholder is defined. In the Patwaris' accounts each payment is credited to the proper party. Before the Deputy Commissioner can proceed, the Kanungo must certify to the extent of the interests of the defaulter, and the Patwari, and Tahsil Wasil bakí Navís, to the amount of balance. A proclamation of thirty days must then be issued, and a copy affixed to the house of the defaulter, and at the Tahsil.

6. *Different kind of transfers.*—The Tahsildar must, at the same time, inform the solvent shareholders that they must take up the defaulting patti, and pay the balances, or become themselves liable to be proceeded against as regards the whole estate. The transfers may be of three kinds :—

I.—Conditional, *viz.*, unless the balances are paid in a fixed period, the transfer will be perpetual.

II.—Perpetual.

III.—For a period not exceeding fifteen years, at the close of which the property will be restored, without any demand, to the owner.

7. *Distinctive features of a transfer.*—It remains to notice that in the case of a transfer of patti to a solvent shareholder—

I.—The lease is not cancelled.

II.—No security is required.

III.—No new agreements are necessary.

IV.—If the defaulter is a Lambardar, the post becomes vacant.

V.—A certain portion of cultivation is to be reserved to the defaulter.

VI.—The balance must be paid down at once.

VII.—The joint responsibility of the whole mahal remains intact.

VIII.—The transaction must be reported in the annexed Form A, at once to the Commissioner and Financial Commissioner.

IX.—The term must end with a rabi harvest at the close of an agricultural year.

X.—The transferred patti is heritable in case of the death of the transferree.

8. *Farm to a stranger*—If the solvent shareholders are unable, or unwilling to take up the defaulting patti, proclamation of thirty days must be issued calling for farmers of the whole mahal or the patti. It must be remembered that—

I.—By farm to a stranger the lease is cancelled.

II.—Fifteen years is the longest period of farm.

III.—Security, amounting to not less than two-thirds of the jama, is required in house property, not in land.

IV.—The farmer becomes lambardar for the time being.

V.—The defaulters are reduced to the position of hereditary cultivators, and have to pay rent rates, or malikanah, over and above the revenue quota on their cultivation.

VI.—Women, children, and residents of Foreign States, cannot be farmers, and the farm is personal, and lapses on the death of the farmer, who cannot transfer it, or grant sub-leases.

VII.—The farm must be reported at once to the Commissioner and Financial Commissioner, in the annexed form B.

VIII.—No malikanah is granted in such cases to the proprietors.

IX.—The term must end with the ʿrabi harvest at the close of a fasli year.

X.—Preference should always be given to one of the agricultural classes over a mere speculator.

9. *Irregular transfers.*—Very often Tahsildars by persuasion, or threats, arrange out of Court, an amicable transfer by way of gift, sale, mortgage, or sub-lease, the land changes hands, and the balances are paid, but such transactions are not legal transfers, or farms, in the sense of this Circular, and the Tahsildars are very much to be blamed for mixing themselves up in the matter. These are merely private contracts. The only regular processes of the kind are stated above, and these only are to be entered in the Appendix No. IX to the Annual Revenue Report.

10. *Kham Tahsil.*—But it may so happen that no farmer is forthcoming; in that case the Deputy Commissioner should report the whole case to the Commissioner. and with his sanction a proclamation of thirty days is to be issued, notifying that the lease is cancelled, and that the Government will assume direct management. This is called Kham Tahsil, or sequestration of profits. The proprietors are reduced for the time to the position of hereditary cultivators, and the Government occupy the position of proprietor. It must be remembered that—

I.—The transaction must be reported in the form given in Appendix C, to the Commissioner and Financial Commissioner.

II.—The lambardars cease to hold that post, and all arrangements made at settlement terminate.

III.—The whole cultivated area should be at once remeasured, rent rates fixed, and no land allowed to be ploughed until a pattah has been taken out.

IV.—No battai, or kankút, is to be allowed: the amounts entered in the khewat have all ceased to the operative.

V.—A jamabandí, according to pattahs issued, is to be made up for each harvest, and collection made accordingly.

VI.—The old jama is still kept on the kistbandí, and tauzih, and all collections are credited to it.

VII.—The term cannot exceed 15 years, and the estate, when released, has to be re-settled.

VIII.—All arrangements are made by the agricultural year.

11.—Now, direct management may be a great success or a great failure, according to the skill of the Tahsildar and the attention of the Deputy Commissioner, and it is not wise to attempt it unless there is certainty of success, or no other alternative.

12. *Sale.*—The last resource in case of default is sale, but there are so many objections to this process, that nothing but most exceptional circumstances will justify it: the permission of the Financial Commissioner must always be *previously* solicited, and no general rules need be laid down for a course of action, which will only very rarely be sanctioned.

13. *Kurk Tahsil.*—The process of Kurk Tahsil, or attachment, should only be adopted to prevent waste, and the Deputy Commissioner assumes the position of Lambardar, and enforces the collections according to the khewat, and village custom. But there should be rarely any occasion for this process, as the instalments do not fall due till after the harvest has been reaped, and if the default is promptly reported, measures will have been taken of a permanent character, before the instalments of the next harvest fall due.

14. *Interference of Tahsildars.*—The Tahsildars should be directed to strengthen the hands of the Lambardars, and not to weaken their influence by dealing directly with the Pattidars When Pattidars abscond, either at seed time or harvest, the Lambardars must arrange for the cultivation of the abandoned fields, and the payment of the balance. The expedient occasionally adopted of sending rubukaris to neighbouring districts or Commanding Officers, to hunt up absent Pattidars, is entirely wrong, as the absentee has not taken his land with him, and *that* is the best guarantee of the revenue. If that is not sufficient, there is something wrong in the assessment, or the distribution of the quota

15 *Evil of delay.*—Delay on the part of the Deputy Commissioner is quite inexcusable The 15 days' report and Monthly Tauzih show the exact balances, and not only should these be carefully examined by the Deputy Commissioner, but when one month has elapsed from the last instalment of the harvest, the Tahsildar should make a separate report of every balance, that measures may be at once taken Non-payment should be followed by immediate inquiry: the Deputy Commissioner should satisfy himself of the process which ought to be adopted, and within six weeks the report should be before the Financial Commissioner for sanction

16. *Unexplained balances discreditable.*—A good Tahsildar knows the position of every village, and when the season is bad, he should have informed the Deputy Commissioner before hand, and received instructions how to act in every individual case. The existence of an unexplained and unreported balance indicates a careless Deputy Commissioner; for, where he cannot collect, he can always report. All balances of former years have been adjusted, and for the future greater precision is expected.

17. District officers are finally warned against too direct interference in the internal concerns of village communities, and against any encouragement of the notion, which seems to prevail, that each sharer is individually responsible for the demand on his own particu-

lar holding, and for nothing more. It is distinctly to be understood that joint responsibility must be maintained: in a country of coparcenary communities it is the mainstay of the system, and cannot be disregarded without altering the whole framework of the community. Let every means, however, be taken to avert the necessity of enforcing it.

NOTE.—The forms annexed to the Circular are omitted. It is still in force, but probably it did not make any change in the law.

XVI.—INVESTIGATION OF CLAIMS TO REVENUE-FREE TENURES IN THE TRANS-SATLEJ STATES.

Copy of letter No. 78, from Secretary to Government of India, Foreign Department, to Commissioner and Superintendent Trans-Satlaj States, dated 23rd February 1847.

Statement No. I and II of Jagírs resumed and settled in the District of Jullunder.
Statement No. III of Jagírs held by the Bedis and Sodhis and Brahmins in the District of Jalandhar.
Statement of Jagírs laid claim to in Zilla Hoshyarpoor.
Statement of Jagírs and rent-free tenures in Zilla Kangra.

The Agent's letters No. 241 and 260, dated respectively the 15th October and 9th November 1847, submitting five statements of Trans-Satlaj jagírs, as per margin, for the orders of Government, and your letter No. 5, dated 15th January 1846, forwarding further information on six cases originally included in Statement No. III of the Jalandhar District, together with your note dated 16th November, have been under the consideration of the Right Honorable the Governor General, who has directed me to forward, for your information and future guidance, the following remarks.

His Lordship observes that at present the recommendations of the officers, being in accordance with their individual views, are often contradictory and sometimes somewhat arbitrary, but that a principle having been once established, these and all future reports can be easily disposed of.

3. The Commissioner's note appears to the Governor General worthy of consideration. His Lordship observes that there is certainly no reason why we should maintain, in perpetuity, an alienation of the Government revenues, which would not have been maintained by the power we have succeeded.

4. The Governor General remarks that all grants were resumed by the Sikh rulers at will, without reference to the terms of the grants, whenever State exigencies or even caprice dictated; on the death of the grantor they lapsed as a matter of course, and were only renewed on payment of a large nazaranah, equal in some instances to many years collections. The Governor General further observes that the decision of the British Government on these claims will give a permanency, validity, and value to the tenures hitherto unknown, notwithstanding sanads from Native Governments of perpetual release from all demands, which the holders know *mean* nothing.

5. His Lordship therefore directs with reference to the nature of the tenures in the Jalandhar, that the following general principles

and rules may be observed, thus rendering the adjustment of all claims easy and intelligible.

1*st.*—All grants for the provision or maintenance of former rulers deposed, or former proprietors dispossessed, to be maintained on their present tenures in perpetuity.

2*nd.*—All endowments, *bonâ fide* made for the maintenance of religious establishments or buildings, or buildings for public accommodation, to be maintained as long as the establishments or buildings are kept up.

3*rd.*—All persons holding villages or portions of villages *free of rent or money payment*, and for which no service was to be rendered, by grants made by Maharajahs Ranjít Singh, Kharrak Singh, or Sher Singh, to be maintained in their holding free of rent during their lives, each case to be open to the consideration and orders of Government on the death of the holder, to be decided according to its merits.

4. All persons holding land or grants as above, subject to a a payment of nazaranah, peshkash, or the like, to hold for their lives, subject to the payment of quarter jama, and, on the death of the holders, the land to the resumed or assessed at full jama.

5. All persons holding land for which service of any kind was to be rendered to the Sikh rulers, including Bedís and Sodhís, who were expected to perform religious services for the benefit of the donors, to hold for life, subject to a payment of ¼ jama, the case of each such tenure to be reported for the consideration of Government on the death of the holder.

6. Grants made by persons not having authority to alienate the Government revenues to be resumed.

7. Where no sanad exists, a holding for three generations to constitute a title, and entitle the holder to have his case adjudicated by the foregoing rules.

8. In accordance with the above rules, the cases in the several statements have been ordered on, and the Right Hon'ble the Governor General directs that, in future, all cases in the Trans-Satlaj territories may be decided by them Any particular* cases being reported separately to Government for special orders.

NOTE.—The orders of the Governor General upon the cases included in the several statements were appended, but it seems unnecessary to print them, as they are merely particular instances of the application of the rules above laid down.

The rules in relation to this subject, which were prescribed upon the annexation of the Punjab, have been given *ante*, *pp.* 17 to 20.

XVII.—RULES FOR DISPOSAL OF RENT-FREE TENURES.

Extract from para. 1 of No. 1419, dated 24th March 1853, from Secretary to Government of India, to Chief Commissioner, Punjab.

The Governor General in Council . . . . . is pleased . . . to lay down the following rules for the future guidance in the disposal of rent-free tenures :—

* Peculiar?

I.—Henceforth, no cases where lands are resumed need be reported to Government, whether donations in money are given or not, or whatever be the amount of the resumption.

II.—Grants of land to village servants may be made by the Settlement Officers, under the authority of the Financial and Chief Commissioners.

III.—The Financial Commissioner shall have authority finally to dispose of all grants of land under 10 acres, which he may be of opinion should be released during the lives of the occupants, or the term of Settlement.

IV.—The Chief Commissioner shall have a similar authority, with a limit of 50 acres, for the lives of the occupants, or the term of Settlement.

V.—All other cases, where it is proposed to release lands above 50 acres in extent, to the occupants for their lives, or to release land of any amount to the 2nd generation, or in perpetuity, or beyond the term of settlement, or where it is proposed to release land forming a whole village, or the fractional part of a village, for any period of time, must be reported to Government.

NOTE.—The above rules were circulated to all Commissioners by Financial Commissioner's Circular No. 10, dated 12th April 1853, printed in volume I of Financial Commissioner's Circulars at p. 10.

Extract from a letter No. 939, dated 29th March 1851, from Secretary to Government of India, to the Board of Administration for the Affairs of the Punjab.

3. Some doubt has arisen in the mind of the Governor General respecting the sense in which the terms "male heirs," and "lineal heirs," have been used by your Board in the papers submitted respecting the succession to jagírs in the Punjab.

4. It was originally ordered in 1849 that in the case of every jagír of which the possession was confirmed, a new sanad should be issued to the person so confirmed in possession.

5 His Lordship observes that you often recommend that the succession should be continued to "male heirs" or to "lineal heirs." The Governor General requests that you will favor him with your definition of those terms respectively. It is expedient that all possibility of present misapprehension or future doubt should be averted.

Copy of a letter No. 1167, dated 15th April 1851, from the Secretary to the Government of India, to the Board of Administration for the Affairs of the Punjab.

I am directed to acknowledge the receipt of your Secretary's letter No 340, dated 7th instant, reporting that sanads granted by your Board to "heirs male" or "lineal heirs," are intended to give the succession to the "heirs male lawfully begotten of the grantee," thus barring the succession of females, or of brothers, or of adopted children, of the grantee.

2. The definition thus given corresponds with the intentions of the Government regarding succession.

3. The Governor General desires me to suggest that, unless there be any reason against it, the uniform sanad alluded to in your

Secretary's letter should describe the intended succession in the terms of the definition given by your Board.

Extract, part para. 2 of letter No. 2990, dated 27th August 1852, from Secretary to the Government of India, to the Board of Administration.

[In this letter, the recommendations of the Board, contained in a statement of dharmarths or religious grants enjoyed by certain Bedis, were approved and confirmed. The letter concludes with the following remarks :—]

The Governor General in Council observes, however, that when there is any perpetual grant assigned, it is stated that it is to descend to the "legitimate male issue in lineal descent." His Lordship in Council assumes that this wording is intended to bar alienation of the tenure, but it is not so stated, and His Lordship in Council thinks that alienation of the perpetual grant ought to be prohibited in distinct terms in the sanad, and the tenure should lapse to Government on the failure of male legitimate issue in the line of the original grantee.

Copy of letter No. 1117, dated 9th November 1852, from Secretary to the Board of Administration, to Officiating Secretary to the Government of India.

With reference to the remarks of the Most Noble the Governor General in Council, regarding the alienation of perpetual grants, communicated to your letter No. 2990, dated 27th August last, I am directed by the Board to state in what sense they understand those remarks, lest any question should arise hereafter as to the claims of collateral relations.

2. His Lordship in Council has ruled—"that the tenure should lapse to Government, on the failure of male legitimate issue in the line of the original grantee." The only doubt to which these words are liable is in the expression "original grantees," which strictly means the grantee from whom the present occupants have inherited. The Board are of opinion that, in the application of the rule, the present occupants, the parties to whom the British Government have confirmed the grants, should be considered as the original grantees: * thus, if *B.*, a present incumbent, dies without issue, his share will lapse, but if *D.*, a present incumbent, leaves four sons, among whom his share is divided, and one dies without issue, the share of that one will pass to his brothers, the other sons of *D.* The Board do not see any difficuly in confining inheritance in the direct line. It is easy to record such shares through the village accountants, as is done in proprietary estates.

3.—With regard to widows, the Board propose, with the sanction of Government, to give them a life interest, to the extent of one-half, or to the full amount, if under fifty rupees.

* And that lands alienated in perpetuity should descend to their male issue in perpetuity, but should not pass in the event of any of them (the present incumbents) dying, without issue, to their *collaterals*.

Copy of letter No. 4436, dated 25th November 1852, from Officiating Secretary to the Government of India, to the Board of Administration for the affairs of the Punjab.

In reply to your Secretary's letter dated the 9th instant, No. 1117, I am directed by the Governor General in Council to acquaint you that you have correctly understood the orders contained in my dispatch dated the 27th August last, No. 2990, respecting the alienation of perpetual grants, and that by the term "original grantee," the present occupants or parties confirmed in their tenure by the British Government, are intended.

2.—With respect to this point, your Board are referred to Sir Henry Elliot's letter, No. 418 dated 31st March 1849, in which it is stated that, in each case "a grant must be given under the Board's seal and Secretary's signature, declaring that the grant is a *free-gift* of the British Government," and again, "and make them regard their new masters in the light of personal benefactors, from whom *alone* the indulgence with which they are treated may be considered to *emanate*."

3.—His Lordship in Council approves of the propositions regarding widows and collaterals as made by your Board.

NOTE.—Letter No. 1117, dated 9th November 1852, to Government, and the reply of Government, No. 4436 dated 25th November 1852, were circulated to all Commissioners by Board of Administration's Revenue Circular No. 54 of 1852, printed at pp. 195 to 197 of the Board's Revenue Circulars.

Copy of a letter No. 797, dated 15th May 1861, from the Secretary to Government Punjab, to the Financial Commissioner of the Punjab.

Acknowledges office No. 967, dated 6th November last, and requests that the draft Circular regarding jagírdars and muáfidars, therewith received, be issued as amended by himself. Adds that his emendations have been entered in red ink in the draft, which is returned herewith.

The Circular referred to is Financial Commissioner's Book Circular LIII, dated 6th November 1860, which, though printed with the original date, was not issued until after the receipt of this letter. It was printed as amended by the Secretary to Government. The Circular is as follows :—

BOOK CIRCULAR No. LIII OF 1860.

Circular No. 109, dated 6th November 1860, to all Commissioners.

Issues detailed instructions regarding the rights, liabilities &c., of Jagirdars and Muáfidars.

A very large number of Circulars have been issued on the subject of jagírdars and muáfidars, their rights, liabilities, and the incidents of their tenure: for convenience of reference the existing rules are consolidated and a slight amplification is made in some matters to clear up moot points. The subject divides itself into seven heads :—

I. Investigation of tenure.

II. Settlement, Land Revenue, Commutation for service.

III. Registers, Lapses, Mutation of Names.

IV. Forfeiture for Crime, and Liability for Debt.

V. Pensions for families of deceased jagírdar or muáfidar, or for ex-jagírdars and ex-muáfidars.

VI. Assessment of lapses.

VII. Inheritance of grants for more than one life.

2. The investigations into tenure may be considered to have drawn to a close in the Punjab; the orders of the proper authority have been received on nearly every case; where fraud, misrepresentation, or false personation are proved, the Government reserve the right to reconsider the grant; where any still remain unreported, they should be disposed of under the existing rules. All muáfi plots situated within jagír villages have also been or should at once be investigated; all old sanads of former rulers being now of no real value, should, as far as may be practicable, without giving offence or creating suspicion, be reclaimed and filed with the proceedings.

I.—"INVESTIGATIONS."

Orders of Supreme Government No. 418 of 1849.
Circular No. 14 of 1849. Gardens.
" " 5 of 1850. Rules for investigation.
" " 21 of 1852 Sanads to be filed.
" " 10 of 1853. Further rules.
" " 34 of 1853. Sanads.
" " 1 of 1854 Plots in jagir villages.
" " 69 of 1856. Quarterly Statement.
" " 2 of 1857. Report of progress.
" " 11 of 1857. Further rules.
Book Circular 72 of 1859. Statement.
" " 57 of 1860. Sanads.

3. Likewise the settlement of all jagír and considerable muáfi holdings has, in most districts, been completed; any exceptions from the rule must be supported by special orders issued from this office. Where both parties, the proprietors and the Government assignees, have been satisfied, absolute compliance with the terms of settlement has not been enforced, but in case of dispute the Courts must enforce it, and when once introduced, it cannot be receded from. In the few instances, where owing to a reduction of the assessment being necessary, permission has been granted to collect by kankút, a condition has been attached that the zamindars consented and that all outstanding balances were to be remitted. The changes when made from assessment to appraisement, must always be at the commencement of an agricultural year, before any idea can be formed of the out-turn of the

II —"SETTLEMENT."

Cir. No. 1043 of 1849. Dustoor-ul-amul.
" " 5 of 1851. Dispossession in jagirs.
" " 13 of 1852 Assessment of all jagirs.
" " 29 of 1853. Compensation to jagirdars.
" " 33 of 1853. Assessment.
" " 39 of 1853 Dates of resumption.
" " 24 of 1854. Hak-ut-tahsíl,
" " 51 of 1854. ditto ditto.
" " 47 of 1854 Compensation to jagirdars.
" " 62 of 1854. ditto ditto.
" " 63 of 1854. ditto ditto.
" " 22 of 1855. Village dues in jagirs.
" " 48 of 1855. Excess of jagirs.
" " 12 of 1856. Reduction of jama affects all shares.
" " 33 of 1857. Dastaks in jagir villages.
Book Cir. 9 of 1858. Compensation to jagirdars.
" " 25 of 1858. ditto ditto
" " 16 of 1860. Refunds.
" " 19 of 1860. Abolition of hak-ut-tahsíl.
Directions to Settlement officers para. 117.
Book Circular No. 42 of 1860. Alluvion and Diluvion.
Consolidated Circular No. 3 of 1861. Compensation for land.

harvest: any other course is manifestly inequitable. The jagirdar cannot be allowed to rack-rent, or derive more from the land than would be taken by the Government whose place he occupies. Not only has the amount of land revenue to be paid by the owners of the soil to the assignee of the rights of Government been definitely fixed, but the amount of nazaranah, or commutation for service due by the jagírdar to Government has been also fixed; and, according to para. 13, Book Circular No. 18 of 1860, should be entered on the Kistbandí of land revenue. The zamindars of jagír villages are entitled to precisely the same consideration as the zamindars of khalsah villages in the case of diluvion, calamity of season, over-assessment; and if the nazaranah bears a fixed proportion to the assessment, a reduction of the one will follow that of the other. The jagírdar and muáfidar will collect from the lambardars of the village only, and not from the sub-proprietors or tenants. If the lambardars do not pay their revenue to the jagírdar or muáfidar, the Summary Court will grant him a decree with costs, or he may file a Regular Revenue Suit within three (3) years from date of demand, or should he so wish it, he can make over the collections to the Government Tahsildar, who will collect for him free of charge. In a village in which the jagírdar or muáfidar holds only an undivided share, he has no option; the whole revenue will be collected by the Tahsildar: a jagírdar who owns an entire village or large fractional divided share, may, under certain restrictions, issue dastaks on defaulters through the Tahsildars, bearing a certain charge payable by defaulter. Jagír and muáfi lands are, as a general rule, liable to all village cesses, for Road and School Fund, Lambardars' and Patwaris' fees, Malbah and Chaukidari. If the area of a jagír or muáfi village suffers or gains from the action of rivers, the jagírdar and muáfidar will, under the rules for that department, entered in Book Circular No. 42 of 1860, lose or gain. If in a jagír or muáfi village Government holds a specified share, or per-centage, alterations prospectively made in the assessment will affect both shares, and also the reversionary jagír assigned to heirs, wherever this has clearly been fixed in a given ratio to the value of the village as originally assessed. All rights of property in jagír or muáfi villages have been adjudicated and recorded. If the jagírdar or muáfidar possesses, or cultivates, land within his jagír or muáfi village, it is in his separate character of proprietor and cultivator, under the laws applicable to that status. The Government, by resigning or assenting to the resignation by former Governments of their own right to the revenue. had no right to imperil the rights of others who were themselves proprietors. If any portion of a jagír or muáfi tenure is occupied for purposes of Government, compensation is granted under the rules applicable to that department entered in Book Circular No. 3 of 1861 Revenue erroneously credited to Government will, under certain rules entered in Book Circular No. 16 of 1860, be refunded, but the occasions for refunds should be rare. If any person, without authority, appropriates revenue, he must be made to refund. If the area in possession of an incumbent prove on measurement to be in excess of the area sanctioned, he may be allowed to select the portion which shall be withdrawn, provided the portion retained by him form a continuous and tolerably compact plot or chak, and where the collective fields may not make up the precise area required, an excess, not exceeding half an acre, may be allowed. Where, however, the portion in

excess has been knowingly and wrongfully appropriated, or where the party may not appear to deserve indulgence, or where it may appear expedient, such portion will be allotted to him as appears just and appropriate.

4. Registers of land, of which the revenue is alienated, are to be kept up in the Sadr and Tahsil Officers, and an annual identification of each jagírdar and muáfidar should take place. The investigations having been completed, all resumptions have ceased, or ought to have done so, and will soon do so; but lapses will be of daily occurrence. The registers prepared in the form laid down in Circular No. 36 of 1853, should embrace every kind of holding, whole villages, portions of villages, and plots of land: they should be divided into three parts,—

III.—REGISTERS AND LAPSES, AND MUTATION OF NAMES,

Circular No.	20½	of 1850. Inams.
"	36	of 1853. Registers.
"	56	of 1855. Absentees.
Book Cir.	77	of 1859. Identification.
"	38	of 1860. Unregistered shares.
"	41	of 1860. Registers of permanent utility.
"	47	of 1860. Mutations.

I. Register of revenue-free tenures released in perpetuity;
II. Register of revenue-free tenures released for life or lives;
III. Register of revenue-free tenures released for the maintenance of institutions.

And in some Districts there will be a separate list of "inams" granted to certain members of the agricultural class. If these are not correctly prepared, and copies furnished to the Tahsils, this should now be done. Only those whose names are entered in the registers are legally entitled to enjoy the revenue; the suits of all others must be dismissed, or measures taken under proper authority to correct the registers. The mode of identification is as follows:—Two kinds of fraud have to be guarded against The heirs of a deceased jagírdar or muáfidar may take possession, or the lambardars may, for their own purposes, conceal the fact of the death of the muáfidar. Recognizances are therefore to be taken from the lambardars to report immediately to the Tahsildar the decease of all jagírdars or muáfidars who reside within the District; the Tahsildar will at once report the fact to the Deputy Commissioner, who, after consulting the register, will pass the necessary order. The first eleven columns of the register show the result of the investigation; when there are more than one occupant the nature and extent of the rights of each party should be carefully shown. The descriptive roll should record some physical and permanent peculiarity; changes caused by age or accident will be noted in the next column. Before the end of April of each year the Tahsildar is to satisfy himself, either by personal identification, or through the patwaris and lambardars, of the existence or decease of each recorded holder within his jurisdiction, and at the end of the following May he will forward to the Deputy Commissioner a list of all changes which have taken place in the way of lapses, or changes of occupancy by inheritance, within the last financial year. The preparation of an annual list of all existing jagírdars and muáfidars has been found to be too tedious an operation, and is therefore discontinued. A second list will be prepared by the Tahsildars to show the names of all jagírdars and muáfidars, who have neither attended in person, nor forwarded a life certificate. Copies of these lists should be entered in the Patwaris'

Diary. At the time of the preparation of the annual Patwaris' papers, it will be the duty of the Kanungo, according to para. 5 of Book Circular No. 31 of 1860, to make particular inquiries on this subject, and when the death of any resident jagírdar or muáfidar is unreported, the patwari and lambardar should be fined, and the proceeds illegally enjoyed should be disgorged. A suitable reward should always be made to informers of concealed lapses. A Tahsildar who allowed such practices, and such gross neglect of the interests of Government to continue unchecked, is clearly unfit for office. The Deputy Commissioner on receipt of the annual lists above described should direct them to be carefully tested, should note the decease of jagírdars or muáfidars in red ink in his Sadr Register, and pass the following orders with regard to those who are absent. If they reside in another District or Tahsil of his own District, he should address the Deputy Commissioner or Tahsildar to ascertain whether the parties are living, and call for a life certificate: the holdings of all, whether resident or non-resident, who finally cannot be traced, are to be attached, and the revenue placed in deposit, either until it be ascertained beyond doubt, that the jagirdar or muáfidar is living, or until a period of two years have elapsed from the date of the last identification; after that period the holding will be considered to have lapsed, the deposit will be credited to Profit and Loss, and no restoration can be made without the orders of Government, as in the analogous case of pensions. As regards the grants which extend beyond one life, or the grants during maintenance of institution, greater caution, according to Book Circular No. 47 of 1860, is required On the occasion of each demise the heirs are bound to notify the fact to the Tahsildar, and the Patwarí should inform the Kanungo by the usual death certificate, on which the Deputy Commissioner would be moved, after consulting the register, to order the transfer of names in the special register of mutations of such tenures, which should be kept in each Tahsil. If intelligence is not conveyed within a proper time to the Tahsils, the heirs and Patwarí should be fined discretionarily. At the time of mutation a memo. should be entered on the back of the sanad. As regards the grants released for more than one life, the law of inheritance, as stated in para. 8 of this Circular, will decide as to the party who is to succeed, but as regards grants during maintenance of institution, the Revenue authorities will recognize any party in possession, leaving to the Civil Courts to decide on any adverse claim to the post of head of the institution. It is scarcely necessary to remark that the jagírdar or muafidar has no power of sale, mortgage, gift, or sublease of his revenue assignment, except under special circumstances, which must be proved. Contracts of this kind will not be recognized by the Revenue Courts, and the parties in possession on those pleas will be considered only the private agents of the holders with no legal rights.

5. But it may so happen that circumstances may compel the interference of Government previous to lapse in the ordinary way. The grant is at once forfeited by any act of treason or disloyalty. The grant is also forfeited when a holder commits a crime which involves a capital sentence, whatever may be the

IV.—FORFEITURE FOR CRIME OR LIABILITY FOR DEBT.

Cir. No.	44 of 1856.	Capital crime.
,,	8 of 1857.	Debts.
,,	65 of 1857.	Debts.
Book Cir.	37 of 1858.	Debts.
,,	40 of 1858	Felony.
,,	47 of 1859	Treason.
,,	75 of 1859.	Treason.

rules of inheritance, but the offender must be in actual possession. If he is only in succession, the next heir will inherit, as if the individual had died a natural death. Jagír and muáfi holdings are liable to attachment under decrees of the Civil and Revenue Courts. The revenue will be collected by the Tahsildar, and paid to the parties holding the decrees. With the death of the life-holder all claim of the creditor expires. Grants to institutions are not liable for the personal debts of the managers. The following is the extent of the liability of the heirs of insolvent perpetual grantees. A revenue assignment is not liable for the debts of the deceased unless the person succeeding to it appropriate, as heir, the personalty of the deceased; if he does so, the revenue assignment during his incumbency, will be held available towards the liquidation of debts; should he however, decline the personalty, he is at liberty to redeem the family mansion or other real property at a valuation fixed by arbitrators.

V.—PENSIONS OF FAMILIES OF DECEASED JAGIRDARS, OR MUAFIDARS OR FOR EX-JAGIRDARS OR EX-MUAFIDARS.

Cir. No. 7 of 1851 Dates of pensions.
" 7 of 1853. Rules for granting.
" 7 of 1854. Do. Do.
" 49 of 1855. Do. Do.
" 72 of 1854. Forms.
" 74 of 1857. Date of grant.
Book Cir. 23 of 1860. Quarterly Budget.

6. At the time of the investigation many tenures were resumed, and pensions granted to the parties; the pension commences from the 1st of September or 1st of March, according to the date from which the Revenue is credited to Government; if the jagírdar or muáfidar enjoyed the rabí harvest, his pension will commence from the 1st of September. If the jagírdar or muáfidar made any illegal collections he is required to refund, and the Deputy Commissioner is responsible that the rights of Government are asserted. As respects the principles which are to guide officers in recommending pensions, no general rule is laid down, but parties should not have their hopes raised by over liberal recommendations, and be exposed to suspense and ultimate disappointment. A pension once granted should not be interfered with; but in fixing pensions, an abatement should be made to cover the risk of seasons and expense of collection Applications for pensions are entered in Quarterly Budgets, and submitted collectively by the Financial Commissioner for the orders of Government in the form laid down in Book Circular No. 23 of 1860. Special rules have been laid down for the heirs of the Cis-Satlaj and Trans-Satlaj Conquest jagírdars.

VI.—ASSESSMENT OF LAPSES.

Circular A. of 1851 Takiahs.
" No. 1 of 1854. Plots in Jagir villages.
" 63 of 1855. Annas and pies.
Book Cir. 63 of 1859. Plots in Jagir villages.
" 18 of 1860. Kistbandi.
" 12 of 1860. Assessment.
" 32 of 1860. Takiyahs and Khangahs.
" 39 of 1860. Assessment.
" 54 of 1860. Assessment.
Directions to Settlement Officers para. 116.

7. It is the duty of the Deputy Commissioner to assert the rights of Government promptly and fully. The only exception is as follows:—Whenever under the operation of a decision heretofore passed the endowment held by a mosque or temple would lapse on the death of the present incumbent, it is competent to the Deputy Commissioner to refrain from carrying that decision into effect on his death occurring, and to report the case for final instructions; and if he shall be of opinion that the institution is valued by the people, and that resumption will prove distasteful, it will be incum-

bent on him to adopt this course. If the jama assessed on a plot which has lapsed, falls short of one Rupee, no addition is to be made to the assessment; the lapse will benefit the zamindars, and in all assessments annas and pies are to be excluded In villages held entirely in jagír, the lapse of the muáfi plot will be in favor of the jagírdar, except those plots which were granted by the three first Maharajahs of Lahore, or those which were maintained by special orders of Government, having been investigated in the Jagír Office of the Board of Administration. In villages shared by Government and the jagírdar, the following is the rule. Where the lands held by the two parties are separated off, the lapse will fall to the share in which the lands are situated (subject to the above reservation of royal and special grants), whether the grants were made by the jagírdar and his ancestor, or not. Where the lands of the two shares are not separate, all lapses will fall to Government, where the original grants cannot be shown to have been made by the jagírdar or his ancestor. Where this can be shown, the proceeds should belong to the jagírdar, in all cases where he may still be in possession of his entire original holdings, (save what may have been taken from him by way of commutation, or discretionarily,) as well as in all those in which the amount assessed on the lapsed land falls short of Rs. 5. In all other cases, where a share of the village has accrued to Government from lapse or forfeiture of shares, the proceeds of the lapse should be divided between Government and the jagírdar, in the ratio of their respective shares, the jagírdar being allowed the benefit of all fractional parts of the Rupee. In most Districts jagír and muáfi holdings have been assessed by the Settlement Officers, but the arrangements have often not been acted upon, except as a basis for calculation of the village cesses, and the jama has therefore not been sanctioned by experience of its suitability. On the occurrence of a lapse of a whole village, or portion of a village, the Deputy Commissioner will not consider himself bound by the recorded assessment, but will proceed to consider the existing assets; if it appear suitable, he will confirm it: if the contrary, he will make a new assessment, and report the same for confirmation to the Financial Commissioner.

When a lapse or resumption take place, two subjects of appeal arise :—

I.—From the heirs of the late incumbent, or the incumbent himself, disputing the right to resume;

II.—From the heirs of the incumbent, or the incumbent himself, or from the zamindars, disputing the nature of the settlement, or the jama. It is important that the parties interested receive early notice of the orders of the Deputy Commissioner, that the appeals may be disposed of before the settlement is reported to this office for sanction. On the first point of appeal the Register is decisive, except where the license allowed by Book Circular No. 32 of 1860 is made use of in favor of certain muáfidars. On the second point the following rules will guide you :—

The ex-muáfidar or heirs of deceased muáfidar are only entitled to demand the privilege of a sub-lease, supposing—

I.—They reside in the village, and own, or cultivate, the land;

II.—They have planted gardens, or have tombs, temples, or buildings on the land;

III.—They have sunk wells, and improved the land;

IV.—They can shew some particular cause connecting them with the land. It is obvious that the great majority of muáfidars cannot urge these claims. In cases of peculiar hardship the Deputy Commissioner may recommend that the settlement be made with the ex-muáfidar.

If their claim be admitted, they are entitled to a sub-lease on half assets, but they will pay their assessment through the lambardars, *not direct to the Tahsildar*, and will occupy the position of Mukarrarídars, described in para. 118 of "Directions to Settlement Officers, North Western Provinces." Of the assessment thus calculated, 10 per cent. is deducted and left at the disposal of the lambardars to cover Pachotra, Patwaris' fees, Road Fund, School Fund, Malbah, and Chaukidari, the expenses of management and village cesses; but, if the muáfidar was in the habit of paying Malikanah, the sub-lessees will pay it still. The sub-lessees will have power to locate cultivators, but they are liable to be ousted from the lease at once,* as an intermediate tenure, should they fail to pay on demand to the lambardar the assessment and the 10 per cent. and Malikanah, (where this last is proved to be demandable,) at any time within one month before the instalments of the Government Revenue fall due.

* *Vide* para. 263 of Directions to Collectors.

His Honor the Lieutenant Governor has further conceded the privilege of a sub-lease on half jama, or one *quarter* of the assets, to certain parties described in Book Circular No. 39 of 1860. It must be understood that the heirs of enjoyers of inams which were continued for life, notwithstanding the introduction of pachotra, are not entitled to any privilege of the kind described above.

Should the ex-muáfidar or heirs of the muáfidar decline to avail themselves of the privilege, (and their refusal should be taken in writing,) or should they not be entitled to it, the settlement will be made on half assets with the lambardars of the village or pattí. His Honor the Lieutenant Governor has ruled on this occasion that, for the *future*, no assessment of revenue is to be made at a higher rate than "half assets," as defined in para. 36 of the Saharanpur* Settlement Instructions. Hence this will be the standard rate, whether the settlement be made with an ex-muáfidar or zamindar. This order is not to have retrospective application to lapses which have already taken place, or settlements already reported.

* In Appendix of new Edition of Directions to Settlement Officers, North Western Provinces.

When the settlement officer has previously assessed the plot, but that assessment has not been acted upon, great caution should be used in suddenly applying it: an average rate deduced from a large area, comprising a variety of soils, will often be too heavy for a small plot of one kind of soil. In assessments, the actual *assets* should be taken into consideration. Should the zamindars refuse to engage, a farmer must be looked for, and a Malikanah reserved to the recusant owners.

The settlement of lapses and resumptions will be reported twice a year to this office, and sanction will be at once conveyed. It must be understood that jagír villages, and integral portions of villages, do not come under the rules given above;—the settlement of such is always made with the proprietors, and never with the ex-jagírdar or muáfidar, or heirs of deceased jagírdars or muáfidars, and the settlement has generally been made by the Settlement Officer and acted upon, so that nothing remains to be done: but these lapses or resumptions must be entered in the half-yearly return, at the close of February and August, for formal sanction of this office, as that sanction is the warrant for your adding the Revenue to the Kistbandi of the next Financial year. The totals of the two half-yearly statements of lapsed and resumed muáfis should tally with "causes of increase" heading No. I, of your Annual Revenue Report and Statement No. XVI A. Instances have been known of lapsed jagírs and plots being kept many years off the Kistbandi; this is a very grave error, and as the Accountant forwards lists of all items credited to profit and loss, will now be checked.

VII.—INHERITANCE OF PERPETUAL GRANTS.
Circular No. 54 of 1852, Law of Inheritance.
" No. 5 of 1853, Civil Court barred.
Book Cir. No. 43 of 1860, Inheritance to eldest sons.

8. The Civil Court can take no cognizance of disputes with regard to shares in, or inheritance to jagír or muáfi holdings. The law of lapse as regards grants made in perpetuity is as follows for the Punjab proper, and the Trans-Satlaj States. The subject Chiefs of the Cis-Satlaj States and the Conquest jagírdars of the Trans-Satlaj States, have their own peculiar and well known laws, and their separate registers.

I.—No tenure descends to collateral heirs, but lapses to Government on the failure of male legitimate issue in the line of the original grantees.

II.—The term of "original grantees" means the parties to whom the British have confirmed the grant.

The reason is simply this:—When the Punjab was conquered, it was ruled that in each case a grant must be given under the Board's seal and Secretary's signature, declaring that the grant was a "free gift" of the British Government, and that the assignees must regard their new masters in the light of personal benefactors, from whom alone the indulgence with which they are treated may be considered to emanate. From this it clearly appears that the Local Courts have no authority to open out questions of division or inheritance anterior to the register. Any plea based on partition, descent, gift, which is not supported by the registers, must at once be rejected. As to questions subsequent to the register, the Courts will decide according to the customary law of the country with regard to inheritance, subject to the limitations of the grant, as shown in the register. But while vindicating the just claims of Government, the revenue executive should recollect that the jagirdar or muafidar is only "an assignee of the Government revenue,"—that the words "estate," "property," are entirely inapplicable to him, as he possesses no portion of the soil, any more than the Government, whose revenue is assigned to him. Nor has he, as assignee of the Government share of the produce, any right or title to meddle with the management or

cultivation of the soil. But he may possible have a double or triple status: he may be a proprietor of a portion, and cultivator of a portion, and as such he is subject to the ordinary laws of property and cultivation; and as regards inheritance and partition, and power of transfer, his right is plenary over his property, houses, gardens, lands, and chattels, and is not restricted by the same limitation of entail, which surround the assignment of the Government revenue, which is not ordinarily transferable, and only heritable within limitations. Much injustice has been committed by neglecting this distinction.

9. It is believed that the whole existing law with regard to jagírdar and muáfidar is entered in this Circular. When it is stated that the number of these assignees of the public revenue amounted on the 1st of May 1860 to many hundreds, and the revenue assigned exceeded thirty-three lakhs, in the whole of which Government has a reversionary interest, it must be admitted that the subject is of importance.

10. This Circular does not refer to grants of inams to headmen of villages or parganah notables; the former are for life only, the latter are governed by special rules; the main feature of both is that the grant is by way of wages for labor rendered, that it is conditional on service being performed, and is held at the pleasure of Government.

REGISTERS—I.—Revenue-free tenures released in perpetuity.

II. Do. for life or lives.

III. Do. for the maintenance of Institutions.

LISTS—I.—Tahsildar's list of all changes by way of lapse or change of occupation during the past financial year.

II.—Tahsildar's list of all parties, who have not passed the annual identification by personal presence, or life certificate.

XVIII.—INTERPRETATION OF ORDERS RELEASING A JAGIR STATED AT A CERTAIN VALUE.

Extract from a letter No. 399, dated 20th June 1853, from the Secretary to Chief Commissioner Punjab, to the Secretary to Government of India.

2. The Chief Commissioner agrees in the opinion of Mr. Raikes and Mr. Edmonstone, that the Sirdar is entitled, not to a jagír of Rs. 4,000, but to a jagír having the proportion to the actual value that Rs. 4,000 bore to the assumed value; the object in the recommendation was, as Mr. Edmonstone observes, to resume one-third of the holding on the death of Ram Singh, and in recording the remaining two-thirds as Rs. 4,000, the nominal value was assumed to be correct. The Board had no measurements and no returns of the value of jagírs, they were consequently obliged in their recommendations to assume the rental to be as entered in the Durbar records of the original grants. Thus it happened that, not in this case only, but in several others of a similar kind, the wording of the recommendation was somewhat wanting in precision, and it is desirable, as suggested by the Financial Commissioner, that all room for doubt should be removed by an authoritative declaration that any difference between the assumed and the actual value of a jagír, in part released and in part resumed, should be assigned in rateable proportions both to the jagírdar and to the Government.

Extract from a letter No. 3095, dated 15th July 1853, from the Officiating Under Secretary to the Government of India, to the Chief Commissioner of the Punjab.

His Lordship in Council admits the correctness of the principle that any difference between the assumed and actual value of a jagír should fall in rateable proportions on the jagírdar and on the Government, and in accordance with this principle you are authorized to dispose of the present case, as well as all corresponding cases in future.

Extract paras. 2 to 6 of a letter No. 14—92, dated 10th January 1856, from Financial Commissioner, to the Secretary to Chief Commissioner.

2. The value of the village, it will be observed, was entered in this Register at 2,000 rupees, from which a deduction of 600 rupees, or 30 per cent, was made on account of service formerly rendered by the holders, and a jagír of 1,400 rupees continued to them, with a reversion of a jagír valued 1,000 rupees to their heirs in perpetuity.

3. At the revised settlement, however, the assessment of the village has been fixed at Rs. 1,320 only, and the Commissioner of Lahore is of opinion that the demand from the jagírdars should be reduced to the above ratio on this smaller sum, adducing as a precedent an order of the late Board, dated 10th February 1852, in the analogous case of jagírs held by Pandit Radha Kishan, and quoting an order of his predecessor, directing that a proportional reduction of tribute should be made in every such case of reduction of assessment.

4. A clause in the sanad issued to all such jagírdars stipulates that where an entire village is held in jagír, any future reduction of assessment will not be taken into consideration by Government, but that where Government has a share in any such village, the reduction is to be proportionally shared by Government and the jagírdar.

5. This, therefore, must no doubt ordinarily be the rule; but in the present case, as it is very explicitly stated that a jagír valued Rs. 1,400 is to be continued with the jagírdars, which is more than the entire value of the village, while, if 30 per cent. is demanded from them, the balance remaining for them will fall short of the residuary jagír of Rs. 1,000 assigned to their heirs in perpetuity, I am desirous, before replying to the Commissioner, of obtaining the instructions of the Chief Commissioner on the point.

6. It will probably fulfil the intentions of the Board in making the original proposition, if a tribute of 30 per cent. be levied from the jagírdars while living, and half the village be continued to their heirs in perpetuity after their death; and if this view be concurred in by the Chief Commissioner, it may perhaps be advisable to intimate generally, that the same principle will apply to all other analogous cases.

Copy of a letter No. 982, dated 15th February 1856, from Secretary to Government of India, to Chief Commissioner Punjab.

I have the honor to acknowledge the receipt of your Secretary's despatch dated 17th ultimo, No. 40, stating that the village of Jamreh,

in the Gurdaspur district, held by Ganda Singh and Partab Singh, has been assessed at a reduced rate at the revised settlement, and recommending that the Government demand of 30 per cent. be levied on the reduced assessment during the lives of the holders, that after them half the village descend to their heirs, and that this be the rule in all other analogous cases.

In reply, I am directed to inform you that the Governor General in Council is pleased to sanction the proposal of the Financial Commissioner in this particular case; and as the rule of levying a rateable cess on the revised assessment is fair and reasonable, His Lordship in Council is pleased to authorize its extension to all analogous cases.

XIX.—COMMUTATION—CIS-SATLAJ JAGIRDARS.

Copy of a letter No. 1407, dated 7th May 1852, from the Officiating Secretary to Government of India, Foreign Department, to the Board of Administration for the Affairs of the Punjab.

I am directed to acknowledge the receipt of your Secretary's letter dated the 16th February last, No. 158, with an enclosure, on the subject of equalizing the demand of commutation for service from the Cis-Satlaj jagírdars, who consist of two classes :—

1*st*.—Those formerly subjects of Lahore, and living in the territory confiscated after the Satlaj campaign of 1845-46.

2*nd*.—Those of the Protected Sikh States, who are the Chiefs entered in the muster taken by Sir George Clerk in 1841.

2 His Lordship in Council having carefully considered the subject of your letter, authorizes, as a general rule, the assessment of the Lahore Jagírdars at four annas in the rupee on their revenues.

3. Whenever a Settlement Officer shall declare the jama which the jagírdar can demand, the commutation will be ¼th of that jama.

In other cases the revenues must be estimated as accurately as possible, and until better information is procured, the estimate made for the Road Fund may be assumed to be correct.

4. All cases on which the special orders of Government have been or may be given, are to be exempted from the operation of this rule, which is to be understood more as a guide in ordinary cases, than as a specific under all circumstances.

5. His Lordship in Council also approves of fixing the commutation of the Protected Jagírdars at 2 annas in the rupee on the jamas to be assessed on their land by the Settlement Officer, as recommended in 8th para. of the letter under acknowledgment.

6. The difference between the rate for the two classes, His Lordship in Council observes, is considerable, but as many of the "Protected Jagírdars" have been reduced to the condition of subjects, from that of petty Sovereigns, during the last two years, the more lenient commutation may be admitted for them.

NOTE.—This superseded the system of calculating commutation at Rs. 16 for each horseman, and Rs. 6 for each footman, whose service was furnished (*see ante pp.* 32, 33). In the Jalandhar Doáb also, a fixed proportion of the revenue assessed is now taken as commutation instead of the former system. The authority for the change I have not seen, but Deputy Commissioner of Jalandhar refers to Government of India letters No. 1977, dated 23rd August 1847, and No. 2236, dated 28th September 1847, to Commissioner Trans-Satlaj States. The reference was only received while this was passing through the press, and has not been verified.

XX.—FORFEITURE OF JAGIRS FOR CRIME.

Copy of letter No. 4170, dated 8th August 1856, from Secretary to the Government of India, to Chief Commissioner for the Punjab.

I have the honor to acknowledge the receipt of your Secretary's letter No. 485, dated the 9th ultimo, and its enclosure, regarding the proposal to confiscate certain shares in a jagír in the Ambalah District held by Prem Singh, inheritable by Nihal Singh and Dyal Singh, sons of the jagírdar, who were killed while in the act of perpetrating a theft attended with murder.

2. In reply, I am directed to inform you, that the Governor General in Council has been pleased to sanction the confiscation of the shares of Nihal Singh and Dyal Singh, on the death of Prem Singh, the present holder, as recommended by the Officiating Commissioner Cis-Satlaj States and yourself.

3. His Lordship in Council also sanctions the same course being adopted in future cases of the like kind, should any such arise.

FINANCIAL COMMISSIONER'S BOOK CIRCULAR XL OF 1858.

No. 85, dated 11th December 1858, to all Commissioners.

States that in the case of a member of a jagírdarí family being convicted of felony, the forfeiture of any share in the jagir of which he may be actually in possession will follow.

With reference to my Circular No. 44, dated 28th August 1856, I have the honor to state, that in the case of a member of a jagírdarí family being convicted of felony, forfeiture of any share in the jagír, of which he may be actually in possession, will result therefrom, as heretofore determined.

2. But, the Hon'ble the Court of Directors, in a despatch No. 44, dated 18th August 1858, para. 12, have objected to the application in such cases, of the principle which has heretofore been designated "corruption of blood," and hence, if at the time of commission the perpetrator be not actually in possession, no forfeiture will take place, unless there be no other heirs. On the death of the present incumbent of the share to which the felon would have succeeded but for the commission of the crime, the next heir will succeed, in the same manner as if that individual had died a natural death.

XXI.—LIABILITY FOR DEBT.

Copy of letter No. 440, dated 29th September 1856, from the Financial Commissioner for the Punjab, to the Officiating Secretary to the Chief Commissioner of the Punjab.

I have the honor to annex a copy of letter No. 2931, dated 15th current, from the Judicial Commissioner, with enclosure from the Officiating Commissioner and Superintendent Cis-Satlaj States, on the subject of jagír estates being held liable for debts after the decease of the incumbent who has incurred the debt.

2. I concur with Mr. Campbell in the opinion that it is not desirable to allow the Civil Courts to become a means of transferring the perpetual jagír lands of the Cis-Satlaj States from the jagírdar aristocracy to capitalists,—a transfer which will doubtless take place to a large extent, and probably before the lapse of many generations, if every incumbent be allowed to encumber his holding at discretion.

3. I recommend, therefore, that it be generally intimated that henceforth, if the heir of a deceased jagirdar refuse to become

responsible for the debts of the latter, incurred subsequent to the issue of the notification, and refrain from appropriating any of his real or personal estate, apart from the jagír, he shall be entitled to receive the jagir unencumbered. Though if he accept the inheritance entire, and appropriate the personal and real estate, as well as the jagír, the proceeds of the latter will be held available during his incumbency, if necessary, towards the liquidation of those debts, as well as his remaining property.

4. As respects debts incurred previous to the issue of the notification, I would further recommend, with reference to the remarks of the Judicial Commissioner, that the judicial authorities be permitted to exercise their discretion as heretofore in each case, and to determine, with reference to the conditions entered into, and all the circumstances attending it, to what, if any, extent the proceeds of the jagír shall be considered available toward the liquidation of the debts, after the death of the party who has incurred, or has made himself responsible for them.

Copy of letter No. 109, dated 9th January 1857, from Secretary to the Government of India, to Chief Commissioner of the Punjab.

I am directed to acknowledge receipt of your Officiating Secretary's letter No. 779 of the 18th October, with the correspondence which accompanied it, referring, for the consideration of Government, the question whether jagír estates in the Cis-Satlaj States should be held liable for debts after the decease of the incumbent who has incurred the debt.

2. The Governor General in Council, I am desired to state, is of opinion that the rule proposed by the Financial Commissioner in paragraph 3 of his letter No. 440, dated 29th September 1856, and recommended by you, is quite equitable, and that in practice it will have the effect of exempting a jagír from liability for the debts of a deceased jagírdar, inasmuch as the revenue of the jagír will not become liable unless the person succeeding to it appropriate, as heir, the personality of the deceased; and no man it is presumed will be so blind to his own interests as to accept the personality if the value thereof be less than the amount of the debts of the deceased.

If, however, a jagírdar at the time of his decease should possess a proprietary right in any lands distinct from his jagír, those lands of course, together with his personal property, would become liable for his debts. His Lordship in Council is aware that such a contingency is not of probable occurrence, but it is well to guard against the above protective rule being converted into a means of relieving *real property in land* from an equitable liability.

3. In reference to your suggestion that the judicial authorities shall be allowed to exercise a discretion in determining to what extent the proceeds of a jagír shall be liable for debts incurred previous to the proposed notification, after the death of the party who has incurred, or made himself responsible for them, His Lordship in Council is pleased to direct that in such cases, the judicial order, if it declare any portion of the revenues of the jagír to be liable, shall not be carried into effect until your express sanction has been previously obtained.

XXII.—MUAFIDARS COMING IN UNDER THE AMNESTY.

Copy of a letter No. 216, dated 12th January 1859, from the Secretary to Government of India, with the Governor General, to the Secretary to Government of the Punjab.

I am directed to forward for the information of His Honor the Lieutenant Governor, the enclosed copies of a letter and its enclosures, from the Secretary to Government North Western Provinces, to the Sadr Board of Revenue North Western Provinces, dated 15th ultimo, No. 2144, communicating the Governor General's decision on the question as to whether the Amnesty precludes the confiscation of muáfi lands for rebellion.

Extract para. 1 of a letter No. 2144, dated 15th December 1858, from Secretary to Government North Western Provinces, to Secretary to Sadr Board of Revenue.

Having laid before the Right Hon'ble the Governor General the Junior Member's Memo. dated the 3rd instant, with its enclosures, I am directed in reply to state that, with respect to persons falling within the scope of the Amnesty, its tenor will ordinarily cover the retention of muáfi lands, but where such lands are held on a tenure implying the duty of actively assisting the Government, or are held as a matter of favor and not of right, such cases should be reported to the Government for orders whenever the muáfidar has proved a rebel.

The rule here laid down was published in Financial Commissioner's Book Circular No. XLVII—7, dated 11th February 1859.

XXIII.—PENSIONS ON LAPSE OR RESUMPTION OF REVENUE-FREE HOLDINGS.

Copy of letter No. 2650, dated 25th June 1857, from Secretary to Government of India, Foreign Department, to Chief Commissioner of the Punjab.

Your Officiating Secretary's letter dated 23rd April last, No. 314, and its enclosures, recommending that the rules laid down by the late Board of Administration in the 2nd para. of their Circular letter dated 27th March 1851, No. 7, in regard to the date from which pensions granted in lieu of jagírs should have effect, may be allowed to remain in force, having been referred to the Financial Department, I have now the honor to inform you that the Governor General in Council has been pleased, in that Department, to accede to your recommendation, on the understanding that the other conditions prescribed in the Circular letter in question continue to be in force.

Circular No. 7, dated 27th March 1851, to the several Commissioners, and independent Deputy Commissioners.

Communicates instructions on the subject of the payments of pensions to parties whose jagírs may be resumed.

I am directed by the Board of Administration to communicate the following instructions on the subject of payment of pensions to parties whose jagírs have been resumed.

2. Where the jagír has been ordered to be resumed at the close of the rabí or kharíf harvest, the pension, if made payable from the resumption of the jagír, is to commence from the 1st of September and 1st of March, respectively.

3. It will not be necessary for the Deputy Commissioner in charge of the treasury where the pension is made payable, to require

a certificate of the enrolment of each part of the jagír on the Government rent-roll of each district, where it may be situated. The jagír, if directed to be resumed after a particular harvest, should be taken possession of by the Government officers, and they are accountable for any neglect in that matter. The pensioner is to enjoy his pension from the date that the Board and Government intend it to commence on, and his enjoyment of it is not to be dependent on his furnishing proof that the Revenue officers have attended to their duty in taking charge of the resumed estate.

4. At the same time, the jagírdar will be made responsible for any collections that he may make after the termination of the harvest, when his interest was ordered to cease.

5. If in any district there are any pensions assigned to ex-jagírdars whose cases are not provided for in these orders, it is requested that they may be brought to the Board's notice at once for further orders, as the hardship of parties who, after the resumption of their land, cannot obtain payment of a commutation pension must be very severe.

6. District Officers should be careful that no jagír, which is ordered to be resumed after a particular harvest, remains without the Revenue Officers of Government being put in possession of it. If, from delay in receipt of orders, or other cause, the jagírdar makes any collections in the harvest after the time when his right was to cease, they must be refunded, or the case submitted to the Board.

7. The Board request that you will see these orders carried out without any delay.

Extract paragraphs 3 and 4 from a letter No. 1109, dated 4th March 1853, from Officiating Secretary to the Government of India, to Chief Commissioner and Governor General's Agent for the affairs of the Punjab.

3. With regard to the rules proposed by the Board, His Lordship in Council would be not unwilling to consider the cases of widows only of holders of jagírs of long standing, who may be in distressed circumstances, and of any widows who may be in want of the actual necessaries of life, such as those contemplated in the two last of the Board's recommendations on the subject, but he cannot consent that the classes contemplated in the two first of the Board's recommendations shall be entitled generally to look for favorable consideration; though he would not be unwilling to consider any particular instance, where the widow of a man who had done especial service might be in actual want.

4. His Lordship in Council will lay down no general rules on the subject, but will judge each particular instance as it arises, on the understanding that no cases, except those of positive distress or want, will be brought forward; and that the male issue of jagírdars shall be told to look to their own exertions for a livelihood.

NOTE.—In Financial Commissioner's Circular No. 7, dated 24th March 1853, with which the above extract was circulated, it is stated that the Board of Administration had "proposed that pensions should be restricted to special cases, such as "the following:—

"1*st*.—To widows and male issue of men of high rank and known local influence, in distressed circumstances.

"2*nd*.—To widows, and widows *only*, of those who have done especial service, and are now reduced to want.

"*3rd.*—To widows and male issue of holders of jagirs of long standing, now in distressed circumstances.

"*4th.*—To special cases of widows and heirs, in want of the necessaries of life."

Extract para. 22, from a dispatch from the Hon'ble the Court of Directors, No. 6, dated 6th March 1855.

The allowance of Mussamat Rup Kunwar reduced from Rs. 334 to Rs. 278, the latter amount being the correct value under the revised assessment of the pattidarí share resumed from her.

The reduction was proper under the circumstances. It was rightly laid down by the Chief Commissioner that when a pension has been granted in lieu of lands, subsequent loss of ground by diluvion, or by the appropriation of land for public purposes, forms no ground for reducing the pension, but that in case of proved over-assessment, a reduction ought to be made, as the pensioner has no right to more than a real equivalent. We agree with Mr. Edmonstone that pensions granted in lieu of land should be fixed "six or eight per cent. below the sum of the jama," to cover risks from seasons and expenses of collection.

NOTE.—The above was circulated by Financial Commissioner's Circular No. 49, dated 26th May 1855. The case appears to have been the same as that mentioned in the correspondence annexed to the following Circular.

Financial Commissioner's Circular No. 7, dated 6th March 1854, to all Commissioners.

Pensions granted to ex-jagírdars and muáfidars on account of lands resumed, not to be affected by vicissitudes of season or other contingencies. These pensions to be fixed at 6 or 8 per cent. below assumed value of land resumed.

I have the honor to annex, for your information and guidance, the correspondence noted marginally,* by which it has been ruled that pensions granted to ex-muáfidars and jagírdars, whose lands may be resumed, shall not be affected by vicissitudes of seasons, or other contingencies arising at a period subsequent to the final assessment of the resumed lands. In all such cases the amount of the pension is to be fixed at 6 or 8 per cent. below the assumed value of the land, to cover the risks of seasons and the expenses of collection.

* Extract para. 3 from my letter No. 354, dated 6th December 1853, to Secretary to Chief Commissioner.

Extract para. 3 from a letter No. 986, dated 23rd idem, to Govt. from ditto.

Copy of No. 143, dated 22nd February 1854, from ditto.

Extract from letter No. 354, dated 6th December 1853, from Financial Commissioner to the Secretary to the Chief Commissioner.

3. I also concur with the Commissioner in thinking that when once the value of a resumed pattidarí share has been finally determined, such contingencies as loss of area by diluvion, or by appropriation of land for public purposes, &c., should not affect the amount of the pension granted in lieu thereof. But it seems to me that the principle recently enjoined by the Hon'ble the Court of Directors of making a deduction from the estimated or ascertained value of jagír lands, whenever cash pensions are granted in lieu, in order to cover the expenses of collection and the risks arising from vicissitudes of seasons, may be very reasonably and justly applied in future to the pensions which the widows of deceased pattidars in the Cis-Satlaj States, as well as females who have themselves had possession, and have now been ousted, are entitled under existing orders to

claim. The Government takes over the land, giving a stipend equivalent to the assessment fixed thereon. There may be a loss consequent on diluvion, or appropriation of the land for a public purpose, or calamities of seasons may prevent the realization of the whole amount, and therefore I think the pensions granted to these parties should always be fixed 6 or 8 per cent. below the sum of the jama assessed on the shares, in lieu of which they may be granted.

Extract from letter No. 986, dated 23rd December 1853, from Secretary to the Chief Commissioner, to Officiating Secretary to the Government of India.

3. With respect to the other point noticed by Mr. Edmonstone, *viz.*, whether a subsequent loss of area by diluvion, or the appropriation of the land for public purposes, should affect the amount of a pension which has once been granted in lieu of lands, I am desired to state that the Chief Commissioner agrees with the Financial Commissioner and the Commissioner Cis-Satlaj States, that a pension once sanctioned by Government should not be interfered with, excepting only in the case of proved over-assessment of the land in lieu of which the pension was granted. In fixing pensions, especially where they are of considerable amount, the Chief Commissioner considers it expedient that an abatement should be made to cover the risk of seasons and expense of collections.

Copy of letter No. 142, dated 22nd February 1854, from Secretary to the Chief Commissioner for the affairs of the Punjab, to Financial Commissioner for the Punjab.

I have the honor, by desire of the Chief Commissioner, to acknowledge the receipt of your letter No. 44, dated 2nd instant, and to forward, for your information, a copy of my letter to Government,* regarding the reduction of the pension of Mussamat Rupan, by which you will perceive that the points adverted to in the 3rd paragraph of your letter No. 354, dated 6th December 1853, were referred to Government with an expression of the Chief Commissioner's concurrence, with the opinion expressed by you, *viz.*, "that a pension once sanctioned by Government should not be interfered with, excepting only in the case of proved over-assessment of the land, in lieu of which the pension was granted," and that "in fixing pensions, especially where they are of considerable amount, an abatement should be made to cover the risk of seasons and expense of collection." The Government do not notice these points in their reply, but the Chief Commissioner requests that you will, in future cases, act according to the opinions above expressed.

* No. 986, dated 23rd December 1853.

XXIV.—SUCCESSION TO PATTIDARI SHARES IN THE CIS-SATLAJ STATES.

Copy of No. 461, dated 12th February 1851, from Secretary to Government of India, with the Governor General to the Board of Administration, Punjab.

By direction of the Governor General, I have the honor to acknowledge the receipt of your Deputy Secretary's letters dated 31st December last, Nos. 710 and 712, regarding collateral succession to pattidari shares in the Cis-Satlaj States.

2. Your Board have requested that a distinct rule should be laid down by the Government, respecting the succession to such shares, on which conflicting decisions have hitherto been given by the several officers in charge from time to time.

3. After careful re-consideration of the whole question, aided by the documents which have recently been submitted, His Lordship has

come to the conclusion that the following rules should be finally adopted for the regulation of succession to horsemen's shares above mentioned :—

I. That no widow shall succeed ;

II. That no descendants in the female line shall inherit ;

III. That, on failure of a direct male heir, a collateral male heir may succeed, if the common ancestor of the deceased and collateral claimant was in possession of the share at or since the period, 1808-9, when our connection with the Cis-Satlaj territory first commenced.

4. On a former occasion, the Governor General expressed an opinion that each question of succession should be governed by a reference to the status of 1808—9. It was intended that the right of possession should be recognized as belonging to those who were in possession of the property in 1808-9, and that the right of succession to such property should be conceded not only to the direct male heirs, but also to the collateral male heirs of those who were so in possession in or since that year. The rule is liberal. No Native State would concede so great an indulgence as to allow succession to collaterals at all : while to give effect to that rule from the period of our first connection with the country, forty years ago, of course increases the indulgence by extending its advantages to a greater number.

5. The limitation of the rule to the date 1808—9 is just and reasonable. For, if the right of succession to any share were granted to the collateral heirs of the person who originally obtained it, at however remote a period, great difficulties would arise in the determination of such rights. Your Board state, in reply to a question put to you, that you consider it practicable to ascertain correctly the possessors of 1808—9.

6. This rule, clearly laid down, will govern the majority of cases which occur, and His Lordship does not see any necessity for establishing an absolute rule in the case of large estates.* Each case may, without any difficulty, and with great advantage, be determined upon its own merits as it arises. His Lordship would, however, remark generally that consideration of the custom of families should have a preponderating influence in the decision of such cases.

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* The subjoined extracts will explain how the expression 'large estates' in the above letter, was understood by the Commissioner and by the Board of Administration.

Extract, para. 2 of No. 494, dated 18th October 1851, from Mr. G. F. Edmonstone, Commissioner and Superintendent Cis-Satlaj States, to Secretary to the Board of Administration.

I have to observe . . . . that the correspondence which terminated with your letter No. 316, dated 26th February 1851, related to pattidarí or horsemen's shares, and I considered that the orders therewith communicated were intended to have application to such holdings only. I presume that the term "large estates" was meant to comprehend such estates as Buriah, Shahzadpur, Manimajra, Síalbah, and others, which are held, not by fraternities of pattidars, as the pattidars of Bilaspur, Sadhaurah, Tharwah, Ambalah, and Boh, for instance, in fractional horsemen's shares, but by an individual Sirdar, as the Sirdar of Buríah, or by the descendant of one or more Sirdars, as the Singhpurías. I find it difficult to propose any definition of the term "large estates," and am compelled therefore to exemplify my meaning. If the Board concur with me in

7. Though the rule now laid down may be at variance with the course which has been actually taken in many cases, the Governor General would by no means disturb the decisions which have been given. All parties who have received possession from a British officer should retain it for their own lives, except females, who should receive pensions instead.

His Lordship has no objection to the proposal for pensions to widows, etcetera, contained in paras. 5 and 6 of your Deputy Secretary's letter No. 712, now under acknowledgment.

Extract from para. 5 of No. 712, dated 31st December 1850, from Deputy Secretary to the Board of Administration, to the Government of India.

The Board request sanction to the Commissioner's propositions . . . . . that male collaterals who have received possession by order of Captain Mills or Mr. Vansittart, should retain their holdings for life, independent of any law that may obtain for the future. Widows and daughters to obtain money pensions not exceeding half their husband's or father's share. The Board also wish that when a widow has inherited under sanction of a British officer, especially of Sir G. Clerk, her children, or if she has none, her brothers, should receive some money provision.

NOTE.—Para. 6 of this letter referred to a recent case which would fall under the last proposal made by the Board in para. 5.

Copy of a letter No. 931, dated 4th September 1851, from the Secretary to the Board of Administration for the affairs of the Punjab, to the Secretary to Government of India.

With reference to your letter No. 461, dated 12th February 1851, laying down rules regarding succession to pattidari shares in the Cis-Satlaj States, I am directed to state that Mr. Edmonstone has lately communicated to the Board the detailed instructions which he has issued to the Settlement Officers for their guidance in the application of the rules; "having come to the conclusion," he says, "after much reflection, that the agency at the Settlement Officer's command will enable him to give effect to the orders of Government in respect of these holdings with more success than could be expected were the work committed to the District Officer."

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thinking that the term is not exclusively applicable to the nine Sovereign States, it might be sufficient to declare generally that the orders communicated with your letter above referred to are applicable only to estates which are held by fraternities of pattidars, and in which the distribution of the holding according to horsemen's shares is recognized, leaving any cases which may admit of doubt, after the declaration of this principle, to be specially reported. Under this rule, the estates of Buriah and Raipur in regard to both of which I have received separate references from Mr. Wynyard, would be considered "large estates," and exempt from enquiry into the status of 1808-9.

Extract part of para. 2 of letter No. 207, dated 21st January 1852, from Secretary to Board of Administration, to the Commissioner and Superintendent Cis-Satlaj States.

First, in regard to your letter No. 494, they concur in the opinion given in the 2nd para: the term "large estates" was meant to comprehend such estates as Buriah, Shahzadpur and others, held not by fraternities of pattidars, but by individual Sirdars or their descendants.

2. It seems unnecessary to trouble Government with the detailed correspondence ;—suffice it to say that the Board have concurred with the Commissioner in the expediency of entrusting the business referred to to the Settlement Officer, rather than to the District Officer, and that they have acquiesced generally in the instructions issued.

3. There is one point in those instructions however upon which the orders of the Most Noble the Governor General are necessary, because it involves a pecuniary charge. You are aware that the number of pattidarí shares is very large: Mr. Edmonstone, speaks of them as "large fraternities with which the Amballa and Thaneysur districts are peopled:" they are so numerous that "it is impossible, as in the case of ordinary muáfidars, to insist on their making appearance at the Tahsildarí once a year for the purpose of having their existence recorded,"—the consequence is that when a death occurs among this class there is a likelihood of its not being reported. Another inconvenience connected with the management of this body, is experienced in realizing the commutation money, which in many parts of the Ambalah District is taken from each contributor individually. Mr. Edmonstone, having regard to these circumstances, has recommended the appointment of Sirkardahs for each pattí or village, who will be held responsible for reporting to the Tahsildar the death of each pattidar belonging to his village, and who will also be charged with the collection of the commutation money. The Settlement Officer in consort with the pattidars will select the Sirkardah: the fraternity to be represented are to have a free voice in the election. It is proposed to remunerate the Sirkurdah by 5 per cent. upon the amount of commutation which he realizes. This would be deducted from the amount to be paid to Government, and consequently the arrangement requires the sanction of Government. The Board recommend it, agreeing with the Commissioner that "the charge, in comparison with the advantages to be derived, will be a mere trifle." He adds that it will not exceed Rs. 10,000 for the whole Division.

NOTE.—From para. 2 of the Board's letter to Government, it would appear that Mr. Edmonstone's detailed instructions were not forwarded to Government.

Copy of a letter No. 2908, dated 17th September 1851, from the Secretary to Government of India, with the Governor General, to the Board of Administration, Punjab.

In reply to your Secretary's letter dated 4th instant, No 931, I am directed to inform you that the Governor General approves of the measures which have been adopted in regard to the succession to pattidarí shares in the Cis-Satlaj States, as well as of your proposal to appoint Sirkardahs for each village, with a view to facilitate the realization of commutation money and to prevent frauds.

Extract paras. 3 to 5 of letter No. 86—866, dated 25th January 1853, from the Secretary to the Board of Administration, to the Secretary to the Government of India.

3. In the Board's letter of the 31st December 1850, para. 5, it was proposed that widows and the daughters of deceased pattidars should obtain money pensions "not exceeding" half their husband's or father's share I am desired by the Board to point out that they did not mean to enforce the rule in every case of the dispossession of females In those cases where females have been several years in

possession, (seven years or upwards,) it was their wish that the entire value of the holding should be continued to them for life in cash. However, since the rules of procedure laid down in Sir H. Elliot's letter of the 12th February 1851, No. 461, have been in operation, several cases have come before the Board in which widows, who had been enjoying,—some for even 30 and 40 years,—the whole proceeds of their husband's holding, have been recommended for pensions of one-half only. The Board think that in these cases the rule presses too severely : they meant it to apply to recent instances of succession, and not to every case in which females are found in possession of pattidarí shares. They now recommend that the rule be so far modified as to admit of *all* widows, in possession of estates seven years, receiving the full proceeds in cash of those estates during their lives ; and that widows, the value of whose estates does not exceed 50 rupees, should receive the full amount for however short a term they may have been in possession. The Board would give retrospective effect to a modification upon this principle of all orders carried out on the Government letter dated 12th February 1851, in reply to the Board's letter of 31st December 1850 . . . . . .

4. There is another point on which the Board desire to obtain the orders of His Lordship in Council. In his 3rd para. the Commissioner refers to a rule proposed by him last year, and sanctioned by the Board, to the following effect :—

" That the mere fact of a female having been in possession in " 1808-9 shall not avail to stop succession, or to invalidate succes- " sion that may have since taken effect. This rule not to extend to " females who since 1808-9 have succeeded to shares, unless they " should have so succeeded with the knowledge and sanction and " under the orders of the Political Agent."

The subject to which this rule refers, and the terms of the rule itself, having lately been under the consideration of the Board, it appeared doubtful whether the Commissioner meant to give the male heirs of such widows as were in possession in 1808-9, a title in perpetuity, or simply a life interest. The Commissioner in his letter No. 788 of the 14th ultimo, a copy of which is annexed, states that he intended, by the words above quoted, to confer a perpetual title on those persons who had succeeded without question to shares of which females were in actual possession in 1808-9. The President concurs with the Commissioner that the rule should be so construed, but the other Members are of opinion that such heirs as are now in possession should only enjoy for their respective lives, and the share of each lapse at death.

5. The recommendation in four of the cases now reported on is that the widows shall remain in possession because they were in possession in 1808-9. This appears to the Board to be fair, and in accordance with the views of Government.

Extract paras. 3, 4 (part), and 5, of letter No. 908, dated 10th February 1853, from Secretary to Government of India, to the Chief Commissioner of the Punjab.

3. With regard to the recommendations contained in paragraph 3, His Lordship in Council must observe that it would have been more satisfactory, had the Board avoided any necessity for subsequent reference, by coming to a clear and express recommendation when first referring the cases in question. But His Lordship in Council

on a consideration of the circumstances, will not refuse his assent to the proposition to grant to all widows in possession of estates for seven years the full proceeds of their estates during their lives, and to grant to widows in possession of estates, the value of which does not exceed 50 Rupees, a similar indulgence, whatever may have been the length of their occupancy.

4. This measure His Lordship in Council will also allow to have retrospective effect . . . . . .

5. With regard to the last recommendation of the Board on which orders are solicited, the Governor General in Council can only consent to allow male heirs who succeeded to widows in possession in 1809, to retain the grants for their respective lives. His Lordship in Council cannot consent to give to such occupants any title in perpetuity, nor was it the intention of Government that any title as from females should be maintained to male heirs at all. As intimated in Sir Henry Elliot's letter dated the 12th of February 1851, where succession may have taken place, it may be maintained for life ; and the four cases in which females are now in possession, as alluded to at the close of the letter, may be dealt with in the same manner.

Extract paras. 3 and 4 of a letter No. 3974, dated 9th September 1853, from the Secretary to Government of India, to the Chief Commissioner of the Punjab.

3. One change however is recommended. According to the present rule, widows whose shares are equal to 50 Rs. and no more, get a pension of 50 Rs., while others, whose shares are perhaps worth a trifle more than 50 Rs., obtain only one-half of the whole amount. Obviously this rule acts unequally. It is therefore proposed as an amendment, to make 50 Rs. the minimum amount of pension in all cases of widows dispossessed, and of widows of pattidars dying without issue, with exception to cases where the share may be worth less than 50 Rs., in all which they should get only the actual value of the share. This change to have retrospective effect.

4. With these recommendations the Governor General in Council has been pleased to comply, and they seem to him sufficient to meet the requirements of the case.

Copy of a letter No. 4531, dated 18th October 1854, from the Secretary to Government of India, to the Chief Commissioner of the Punjab.

I am directed by the Governor General in Council to transmit, for your information, the accompanying extracts from a dispatch from the Honorable the Court of Directors, No. 36, dated the 23rd August last, on the subjects noted on the margin.

Paras. 4 and 5. Respecting the succession of widows.
Para. 27. Respecting the death of Bhai Dana, the Mohant of the institution known as "Dera Khuna Bhai Dana," for the support of which the two villages valued at Rs. 5,000 per annum held by the Bhai had been released to his successor, subject to the payment of one-sixth revenue.

Extracts from a despatch from the Honorable the Court of Directors, in the Political Department, No. 36, dated the 23rd August 1854.

Further correspondence respecting the widows.

4. Mr. Edmonstone states, and the Chief Commissioner concurs in the statement, that widows have in general no disinclination to exchange their landed rights for pensions of equivalent value, as they "do not "attach to the possession of a property or interest in the land "that importance which the pattidars themselves and others of "their class unquestionably do."

5. There can be no objection to giving pensions in lieu of rights in land with the consent of the widows themselves; but in any cases in which their consent may not be obtained, we must maintain our orders that such widows as are still in possession be left undisturbed for life. In the cases referred to in para. 104 of your letter, the resumptions appear to have been carried into effect before our orders were received. We shall not therefore interfere with those cases.

NOTE.—Para. 27 is omitted as relating to a different subject, which does not fall within the purpose of the present collection.

Copy of a letter No 4532, dated 18th October 1854, from the Secretary to Government of India, to the Chief Commissioner of the Punjab.

I am directed by the Governor General in Council to forward to you the annexed extract, paragraph 6, from a despatch from the Hon'ble the Court of Directors, No. 36, dated the 23rd August last, and to request that you will have the cases of dispossessed widows, who have been pensioned, examined, in order that, if there should be any in which, under the instructions of the Hon'ble Court, a larger pension than that which has been already granted would be claimable, they may be reported for the consideration and further orders of the Government.

Extract from a despatch from the Honorable the Court of Directors, in the Political Department, No. 36, dated 23rd August 1854.

6. Under your existing rules, our order that widows who had been dispossessed should receive pensions equal to the full net value of their estates, is already in force with respect to all who had been in possession for seven years, as well as to all those whose holdings did not exceed Rs. 50 in annual value, and Rs. 50 has been fixed as the minimum of pension, except where the value of the holding did not amount to that sum. We are however still of opinion that widows in *bonâ fide* possession, even for a shorter term than seven years, had a just claim to remain undisturbed, and have therefore, when dispossessed, the same just claim to a full equivalent. It is contrary to our practice to give retrospective effect to changes in the law or usage of the country to the prejudice of individuals, and we must therefore maintain our previous orders on this point.

Copy of a letter No. 5495, dated 29th December 1854, from the Secretary to Government of India, to the Chief Commissioner of the Punjab.

I am directed by the Governor General in Council to transmit the annexed extract, paragraphs 20 and 21, from a despatch from the Honorable the Court of Directors, No. 47, dated the 18th October

last, respecting the cases of widows and female relatives of deceased pattidars, and to request, with reference to the letter to your address, dated the 18th October last, No. 4532, that the cases of all widows who were in actual possession, and have been dispossessed and pensioned, may be once for all revised, and that pensions in accordance with the Honorable Court's opinion may be proposed for the formal sanction of Government.

Extract from a dispatch from the Honorable the Court of Directors, in the Political Department, No. 47, dated the 18th October 1854.

(56 to 59 and 61) Cases of widows and female relatives of deceased pattidars.

20. Many of these cases will require to be revised in conformity with our orders for paying the full value of the tenures to the widows of pattidars, who had been deprived of their holdings.

21. We approve the partial revision already made, but we considered all the widows who had been in actual possession, entitled to the full value of the pattidarí share from the date at which it was taken from them.

XXV.—SUCCESSION TO JAGIR TENURE OF CHAUDHRIS IN KHARAR TAHSIL.

Extract paras. 1 and 3 of a letter No. 497, dated 22nd July 1853, from the Secretary to Chief Commissioner Punjab, to the Secretary to Government of India.

I am directed to forward to you, to be laid before the Most Noble the Governor General in Council, the annexed copy of a letter from the Financial Commissioner, No. 167 dated the 14th July, with its enclosures, regarding a mixed jagír tenure existing in the Kharar Tahsildarí of the Ambalah District. There are 42 jagír villages with an aggregate jama, according to the revised settlement, of Rs. 21,808. In these villages it is found that certain chaudhrís of different castes hold shares, generally of one-seventh, but in one case of one-fifth. The total jama of the chaudhrís' share is stated to be Rs. 3,128, and it is shown that their tenure was prior to, and distinct from, the tenure of the Sikh jagírdars who hold the greater portion of the village. The object of the Financial Commissioner's application is to obtain an authoritative recognition of the rights of these chaudhrís.

3. Under these circumstances the Chief Commissioner supports the recommendation of the Financial Commissioner to the following effect,—that these chaudhris be recognized as jagírdars, having a right of hereditary occupancy in perpetuity, subject to the payment of the commutation of 2 annas per rupee in like manner as other Cis-Satlaj jagírdars; that succession be limited to lineal heirs male, and that, as in the case of the Bhirog and Thanesar pattidars, present possession be taken as the basis on which such successions shall be regulated; and that the same rules, whether in regard to the recording of shares, the levying of commutation, or the securing of lapses, be applied to them, as are now applied to the recognized Cis-Satlaj jagírdars.

Copy of a letter No. 3601, dated 19th August 1853, from Officiating Under Secretary to the Government of India, to the Chief Commissioner of the Punjab.

In reply to your Secretary's dispatch dated 22nd ultimo, No. 497, advocating claims of certain chaudhris in the Kharar Tahsildarí of

the Ambalah District, to be recognized as a distinct body of jagírdars I have the honor to inform you that the Governor General in Council is pleased to acknowledge the rights of these chaudhrís to the extent recommended by you, and to sanction the same rules being applied to them, in regard to lapses and commutation for service, as are now applied to the other Cis-Satlaj jagírdars.

XXVI.—SUCCESSION TO CHAHARAMI JAGIRDARS.

Extract para 11 of a letter No 2352, dated 5th October 1847, from the Secretary to the Government of India, with the Governor General, to the Commissioner and Superintendent Cis-Satlaj States.

[The letter was on the subject of the sanad proposed to be conferred on the Maharajah of Pattialah. In para. 8 it is stated that the extent of the Maharajah's rights and jurisdiction over the Chaharamís is "involved in great obscurity, so much so, as to render any division extremely difficult;" and in para. 9 that "the Governor General would regret interfering in any manner to alter the relations of the Maharajah with those Chaharamís who have been for a long series of years universally acknowledged as his dependants."]

11. As it appears to be by no means clearly established what societies of Chaharamís are or are not feudatories of Pattialah, or indeed what is the exact position or rights of these bodies, the Governor General considers that these are points which require careful scrutiny and investigation, and his Lordship desires that you will proceed at once to institute the necessary enquiries as to the history, past and present rights of any of these bodies, respecting whom there may have been any question, dispute or uncertainty, so as to establish their actual relative position towards each other and their feudal superior, whoever that may be, as well as to confine the mode of succession to lineal descendants in each case in which the paramountship of the British Government is established.

Extract para. 5 of a letter No. 28, dated 23rd March 1860, from the Commissioner Cis-Satlaj States, to the Financial Commissioner Punjab..

Accordingly, Captain Busk now brings to light that the Chaharamí jagírdars have been hardly deal with. Inheritance has been restricted to the heirs male of incumbents in 1852, so that anything like collateral succession has been debarred A brother could not inherit his brother's share, and branches of a family tracing from a common ancestor in 1809 were treated as if they were entirely alien to each other. The Chaharamí investigation was commenced and ended under my superintendence, and I can declare that I had no idea of applying such restrictions. Indeed the emancipation of these Sirdars and fraternities of Sikhs from the grasp of Pattialah can scarcely be considered a gain to them if we enforce such rigid rules of descent. I have therefore had prepared a list of shares which I consider to have been erroneously resumed. I have recorded an opinion on each case, and I beg to submit the same to you, in the hopes that these shares may be released to the collateral heirs entitled under the more

liberal rules to succeed, and that the sums we have realized during resumption may be returned to them.

Extract para. 2 of a letter No. 1021, dated 24th July 1860, from Secretary to Government Punjab, to the Financial Commissioner of the Punjab.

His Honor coincides in the opinion expressed by the Deputy Commissioner of Ambalah, the Commissioner Cis-Satlaj States, and yourself, that the tenure of the jagírdars known as Chaharamís is equally independent with that of other jagírdars, succession to whose estates in default of lineal heirs may descend to collaterals sprung from the ancestor in possession in 1808-9. But it appears that, (although no orders of Government have been given on the subject,) the descendants of Chaharamí jagírdars, other than lineal, are excluded from inheriting, unless sprung from the ancestor in possession in 1852. You state that the disability has endured for eight years, but it is clearly wrong, and the prescription is not, in His Honor's opinion, too great to admit of remedy. The proposals made by the Commissioner are therefore sanctioned. The refunds may be allowed, and the registers corrected.

XXVII.—SUCCESSION TO LARGE ESTATES, CIS-SATLAJ STATES.

Extract paras. 1 and 3 of letter No. 442, dated 22nd May 1860, from the Financial Commissioner for the Punjab, to Secretary to Government Punjab.

I beg to forward for the orders of Government the enclosed correspondence* with regard to the succession to the Chieftainship of Kherí in district Ludhianah of the Cis-Satlaj States.

* Letter No. 57 dated 16th current, from Commissioner, with English correspondence and vernacular proceeding.

3. The statement of Mr. Barnes seems to me convincing, and I suggest that it be authoritatively acted upon, and that it be ruled once for all that, although the issue of a concubine may succeed *in default of more legitimate issue*, wherever the issue of a regular marriage does exist, the preference should always be given to such issue.

Extract part of para. 2, and para. 3, of a letter No. 766, dated 23rd June 1860, from the Secretary to Government Punjab, to the Financial Commissioner Punjab.

2. * * * For the future, it is ruled, that all successions of this kind should be settled by order of the Commissioner, to whom a report should be made in the first instance.

3. His Honor directs, as an invariable rule, that the right of succession be recognized in the person of legitimate issue, in preference to illegitimate children.

XXVIII.—SUCCESSION TO CONQUEST JAGIRS, TRANS-SATLAJ STATES.

Extract paras. 12 and 13 of letter No. 557, dated 20th December 1856, from Financial Commissioner, to Secretary to the Chief Commissioner of the Punjab.

12. As respects the first point, I recommend that a fixed proportion of the value of every share which lapses be allowed, as a life pension, to the widow, (or widows collectively,) of the deceased shareholder, or failing them, to the unmarried daughter, (or daughters collectively,) if there be any ; with a condition that if such daughter marry or widow re-marry, a consolidated sum by way of dowry, shall

be given her, amounting to seven years' purchase of her pension, in case of a daughter, and to five years' in the case of a widow, the pension of course ceasing.

13. The proportions of value of share or fixed amount, which I would recommend for life pension, are as follows :—

If the value of lapsed share exceed 50 Rs. per annum—One-half.

If between 30 and 50 Rs. per annum,	Rs. 30 per annum.
If below 30 Rs. per annum,	The whole.

And when there may be more than one recipient, should the pension amount to Rs. 30 or upwards, I would propose that it should be divided into shares, each resumable on death of the holder ; if below that amount, then for the joint lives of all.

Extract part of para. 3 of letter No. 182, dated 9th March 1857, from Chief Commissioner of the Punjab, to Secretary to Government of India, Foreign Department.

In his 11th para. Mr. McLeod has made allusion to two points in connection with these jagirs : firstly, the regulation of the proportion to be allowed as provision for the female heirs of the present incumbents whose shares may lapse from time to time. . . . . .

The Chief Commissioner supports the proposal of the Financial Commissioner to the effect that the widow, (or widows collectively), or failing these, the daughter (or daughters collectively), of a deceased jagirdar, be allowed a fixed proportion of the value of his share as a life pension, with the condition that on the re-marriage of the widow, a consolidated sum equal to 5 years' purchase of her pension be allowed her by way of dowry ; and that on the marriage of the daughter, a like sum amounting to seven years' purchase be granted, the pension in both cases of course ceasing The following are the rates of life pensions recommended by Mr. McLeod, in which the Chief Commissioner concurs, except that he suggests that if the pension should exceed 1,000 Rs., it should be open to special consideration.

Rates of Pension.

If the value of the lapsed share exceed Rs. 50, ...	the amount of pension to be one-half.
If between 30 and 50 Rs., ...	Rs 30 per annum.
If below 30 Rs., ...	The whole.

Extract paras. 1, 5 and 7, of No. 1993, dated 1st May 1857, from Secretary to the Government of India, Foreign Department, to the Chief Commissioner of the Punjab.

I have received and laid before the Governor General in Council your Officiating Secretary's letter dated 9th March 1857, No. 182, submitting a register of rent-free tenures in the Hushiarpur district, acquired by the ancestors of present incumbents by conquest, previous to the ascendancy of Maharajah Ranjit Singh, and in reply I am directed to communicate to you the following instructions :—

5. It is desirable, His Lordship in Council observes, that rules for the provision to be made, on the decease of a jagirdar without issue and the consequent lapse of his share, for his female relatives,

should be laid down at the present time, and the scale of pensions which is proposed appears sufficiently liberal. The only modification which His Lordship in Council would suggest is, that when the value of the lapsed share shall exceed 50 Rupees, the pension shall be ordinarily one-half, but that whenever such half shall fall below Rs. 30, the pension shall be Rs. 30. A rule similar to this was sanctioned in the case of the female relatives of the Cis-Satlaj pattidars by Government letter No. 3974, dated 9th September 1853, and it is necessary to prevent the injustice which in the absence of such a rule would occur, as explained in the letter cited, and more at length in those to which it is a reply.

7. His Lordship in Council agrees with you that all *bonâ fide* lapses should escheat to the Government.

Extract paras. 2 to 5, and parts of paras. 7 and 9, of a letter No. 204, dated 27th August 1860, from the Commissioner and Superintendent Trans-Satlaj States, to the Financial Commissioner for the Punjab.

2. I am desirous to introduce a system of registry somewhat similar to that which has been followed in the Cis-Satlaj States. It simply consists of a genealogical tree commencing with the ancestor whose descendants will inherit the aggregate jagir revenue, whether in any particular generation there may be male issue of the last incumbent or not. Provision is made for adding the name of each son to the family tree as he is born, and there are columns for shewing the dates of the death of each incumbent, and the names of his successors. There is sufficient blank space left under each family heading for the names of future successors. This scheme was devised by Mr. G. F. Edmonstone, when Commissioner Cis-Satlaj States, and was issued with a letter to Deputy Commissioners, No. 963 A dated 14th June 1851.

3. But I find that the chief point on which the preparation of the register depends has not been settled. In the Circular of the Lahore Board of Administration, No. 54 dated 8th December 1852, the orders of Government on certain points connected with grants in perpetuity are thus summarized :—

"*First.*—That such tenures are not to descend to collateral heirs, "but to lapse to Government on the failure of male legitimate issue "in the line of the original grantees; and

"*Secondly.*—That the term 'original grantees' means the parties "to whom the British Government have confirmed the grant."

4. The jagir investigation in this Doab may be said to have commenced with the year of annexation, or A. D. 1846. But "conquest tenure" jagirs were under that enquiry generally released only for life. There is no question regarding any that were released in perpetuity; the individual in whose favor the release was made is the "original grantee." But a large number of the life tenures were reconsidered under the orders of the Supreme Government, No. 2993, dated 23rd May 1856, and were reported to Government by the Financial Commissioner (vide his No. 557, dated 20th December 1856). All these tenures were released in perpetuity.

5. The question that now arises is, whether the "original grantee" in these tenures is to be the person in whose favor the

release was made in 1846, (or subsequent year) for life, or whether he who was in possession when the perpetual release was confirmed is to come under that designation.

7. * * * I would venture to propose that the person in whose favor the grant was released, though then only for life, at the first enquiry after annexation, be recorded as the "original grantee."

9. It appears that the main rules sanctioned by the Supreme Government for the Cis-Satlaj States might with advantage be introduced here. . . . . The rules I would advocate are these, and the authority is quoted in the margin. The date in rule 3 is of course altered to suit the status of the Trans-Satlaj jagírs.

Supreme Government to Board of Administration, No. 461, dated 12th February 1851.

I.—That no widow shall succeed to a jagir share;

II.—That no descendants in the female line shall inherit;

III.—That on failure of a direct male heir, a collateral male heir may succeed, if the common ancestor of the deceased and of the collateral claimant was in possession of the share at, or since, the year of primary investigation of the jagir tenure, which in the Trans-Satlaj States is ordinarily 1846.

Forms part of the 10 subsidiary Jagír Rules sanctioned by the Board's letter to Commissioner Cis-Satlaj States, No. 207 dated 21st January 1852.

IV. That alienation by a jagírdar of portions of his holding, whether to his relations or strangers, shall neither be officially recognized nor officially recorded.

V. That one or more sons of a common ancestor in possession at the period of the first investigation, being entitled to the whole share possessed by such common ancestor, shall be held and be declared responsible for the maintenance of widows left by deceased brothers, who, had they lived, would have shared with such son or sons.

Extract part of para 1, part of para. 2, and paras 3 to 6, of a letter No. 845—4150, dated 22nd September 1860, from the Financial Commissioner of the Punjab, to the Secretary to Government Punjab.

I have no hesitation in recommending, for sanction, the three proposals of the Officiating Commissioner of the Trans-Satlaj States, contained in his letter No. 204, dated 27th ultimo, which I submit in original. * * * * * *

2. 1*st proposition.*—* * * * I consider that the *grantees*, in the sense of the leading Circular, No. 54 of 1852, should be considered the parties whom we found in possession in 1846.

3. 2*nd proposition.*—It is highly expedient that the same Registers should be prepared of the perpetual jagírdars, as were prepared by Mr. Melvill, Settlement Officer in Ambalah of the Cis-Satlaj States: I have had an opportunity of examining them, and, until they are prepared, doubt and uncertainly will always prevail.

4. *3rd proposition.*— On the above two points there can be no doubt: on the third we require a positive order of the Supreme Government, and it is advisable that it be solicited. The object is to place the tenure of the Trans-Satlaj States conquest jagírdars on the same footing as that of the Sirdars of the Cis-Satlaj States.

5. *Rules in Cis-Satlaj States.*—When I was Deputy Commissioner of Ambálah, the subject was for the first time placed on a sound footing, and the three first rules recommended, being the result of a collation of precedents. The two additional rules were passed subsequently, and are both highly expedient.

6. *Summary of proposed rules.*—It is proposed to make 1846 to the Cis-Satlaj States, what 1809 is to the Trans-Satlaj States; to exclude females, both widows and daughters, but to provide them with a maintenance, if the jagír continues in the male line, or with a pension if after the lapse of the jagír they are found destitute; and to decline recognition to any alienations.

Extract from a letter No. 765—1590, dated 20th October 1860, from Secretary to Government Punjab, to Secretary to Government of India.

2. The Honorable the Lieutenant Governor concurs in all the proposals of Mr. Cust. But before issuing final orders, His Honor has deemed it proper to lay the documents before the Supreme Government for their consideration and orders.

Copy of a letter No. 5657, dated 23rd November 1860, from the Secretary to Government of India, to the Secretary to Government Punjab.

In reply to your letter dated the 20th October, No. 765, I am directed to inform you that the President in Council approves of the rules proposed for deciding future cases of succession to conquest jagírs in the Jalandhar Doáb.

XXIX.—SUCCESSION TO JAGÍRS GRANTED AFTER 1859.

Extract para. 4 of a letter No. 476, dated 25th November 1859, from Secretary to Government of India, to the Secretary to Government Punjab.

4. As to the general rule proposed by the Honorable the Lieutenant Governor, that the heirs of jagírs enjoyed by families of importance be declared subject to selection by Government, the Governor General does not see how any such declaration can be made in regard to jagírs which have already been granted free of such condition; and His Excellency doubts whether in any case it is good policy to reserve to the Government the right of selecting a fit heir to represent the family. But with regard to jagírs which may hereafter be granted, His Excellency has no objection to impose the general condition that the estate shall be inherited integrally, and not be frittered away amongst many co-heirs. As to the one single heir, His Excellency is disposed to think that it will be quite enough for the Government to require that his inheritance shall need confirmation or recognition by the Government before it is considered complete, and to make it known that this recognition may, if cause should arise, be withheld.

Copy of a letter No. 680, dated 14th December 1859, from Secretary to Government of India, to the Secretary to the Government of Punjab.

With reference to your letter No. 806, dated 2nd instant, regarding the conditions on which jagirs are to be granted in future, I am directed to inform you that it is His Excellency's desire, that the conditions prescribed in the letter to your address, dated the 25th ultimo. No. 476, may be invariably acted on by the Punjab Government.

NOTE.—These conditions were made public by direction of the Lieutenant Governor, in Financial Commissioner's Book Circular No. XLIII—84, dated 18th September 1860.

XXX—PRIMOGENITURE ESTABLISHED IN REGARD TO THE JAGIR OF MIAN DEVI SINGH OF RAMGHAR.

Copy of a letter No. 1490, dated 1st April 1859, from the Under Secretary to the Government of India, to the Secretary to Government Punjab.

I have the honor to acknowledge the receipt of your letter dated 22nd January last, No 63, recommending that the Ramghar estate be entailed on Mian Ranjit Singh, the eldest son of Mian Devi Singh, the two younger sons receiving only a maintenance.

2. As this proposal has emanated from the younger sons themselves, who are desirous of preserving the estate intact, the Governor General in Council is pleased to sanction its adoption, and to declare Mian Ranjit Singh entitled to succeed to the whole estate, which will in future, descend to the eldest son only, in each generation, by right of primogeniture.

XXXI.—INTRODUCTION OF PRIMOGENITURE AMONG JAGIRDARS.

Copy of a letter from the Under Secretary to the Government of India, with the Governor General, to the Secretary to the Government of the Punjab, &c., in the Foreign Department, dated 12th May 1860.

The Governor General has given his careful consideration to the despatch and papers transmitted by you on the 24th June last, No. 431, respecting the expediency of effecting some alteration in the rules of inheritance as applied to conquest and other jagirs amongst the Sikhs. Those rules, as they now prevail in different families, are distinctly described in your despatch, and in the letter of the Commissioner of the Cis-Satlaj Division.

2. In determining the question which the Lieutenant Governor has submitted, the Governor General has been guided by the following considerations:—

1*st.*—That it is politically desirable that primogeniture should be encouraged. The Governor General believes that a more unfortunate prospect cannot be before a people, especially a people amongst whom society is of a feudal form, than that of the gradual dissolution of all their wealthy and influential families into numerous poor and proud descendants. His Excellency also believes that the task of governing such a people in contentment becomes more and more difficult as this change progresses.

2nd.—That no alteration in the rule of inheritance should be made in a family. unless with the consent of its head, and of the chief members interested.

3rd.—That in endeavouring to bring about a change to primogeniture, Government should act declaredly upon political and social grounds alone, and not upon moral grounds.

3. His Excellency cannot admit that bigamy, or polygamy, amongst a people whose religion allows it, can properly be denounced as immoral, and he disclaims not only the duty but the right of interference in questions of inheritance, so far as that interference is based upon the ground suggested by the Financial Commissioner, *viz.*, that we ought not to be parties to a practical recognition of bigamy or polygamy. If our consciences will not allow us to recognize fully and unreservedly the ancient marriage ordinances of Hindus and Muhamadans, we had better not attempt to govern men of those creeds.

4. Keeping these considerations in view, the Governor General is of opinion that the course proposed by the Lieutenant Governor, of proceeding to consult the principal Chiefs in the way suggested by the Commissioner of the Cis-Satlaj Division, is a very good one. His Excellency entirely concurs with the Lieutenant Governor in deprecating anything like arbitrary legislation on the matter.

5. There is one point not adverted to in these papers, which the Governor General desires me to notice. It is possible that it may occur to some of the Chiefs that we advocate the concentration of inheritance upon one heir, with some ulterior purpose of increasing the opportunities of a lapse in the succession, and thereby benefitting the Government. The suspicion would be unreasonable but it is not the less likely to arise, and the Governor General thinks that it would be well to put our officers on their guard against it.

Circular No. 2, dated 25th May 1860, from Secretary to Government Punjab, to Commissioner and Superintendent——Division.

I am directed to forward for your information the correspondence marginally noted, * regarding the possibility of substituting the law of primogeniture for the various usages which now regulate hereditary succession to conquest and ordinary jagírs held in perpetuity.

2. Bearing in mind the several considerations set forth by His Excellency the Viceroy, and his prohibition of arbitrary interference, you will be good enough personally to ascertain the wishes of the owners of any considerable perpetual jagírs which may exist in your Division. as regards the descent of their estates to their heirs after their own demise. You will take care to explain to them fully the advantages of primogeniture in the maintenance of the original importance of families It may also be stated that the Government regard the descent of large jagírs to single individuals according to a fixed law as favorable to political stability and order. If the existing owners shall deliberately and voluntarily agree that succession to their estates shall henceforth be regulated by the law of primogeniture, to the exclusion of all other customs and laws what-

* Not printed.

soever, you will then cause a formal deed declaratory of the fact to be carefully drawn up and attested, copy of which will be deposited in the archives of Government, and which will alone be of force to determine the future legal transmission of the jagirs.

3. You will duly report concerning the families which will be affected in your division by the above proposals; and the Lieutenant Governor trust that you will be able to announce, in three months, the results of your consultations.

4. If the law of primogeniture shall come to be generally adopted, the prospects of younger sons in considerable families may ultimately demand consideration. They will be under the necessity of earning their own bread, unless they remain dependent on their elder brothers.

5. It is the desire of the Lieutenant Governor that the sons of the native aristocracy should, when qualified, obtain a fair share of the appointments in the gift of Government, and he is happy to know that, of late, a great many have been provided for in the Civil and Military services. It is now a rule under this Government to select for the higher appointments men of rank and respectability, experience having demonstrated the superiority of their weight and influence with the people. The great obstacle to their preferment has been their want of education.

6. But an experiment is now in progress at Lahore of a promising character, which, if successful, will provide greater facilities for the education of the sons of the Sirdars, than have hitherto been within their reach. The Government school is under the direction of competent teachers; separate class rooms are devoted to the sons of the gentry, and to those of the commonalty. There are already 50 boys, the sons of Sirdars, who had not previously attended school, for their families shrunk from sending them to institutions in which they were liable to be associated with boys of a lower status; several of these boys have been sent from distant districts, and generally a desire for education has grown up. If the plan succeeds at Lahore, of which there is at present every hope, the Lieutenant Governor will be glad to see a similar school established in each Division. There is no difficulty in procuring appointments for well-born cadets, so long as they possess average qualifications. They can be disposed of in the Irregular Force and in the Civil Department. The body to be provided for will probably not be numerous, and fairly educated, they will have preferential claim on the Government, which has perhaps been somewhat slow to improve their condition and elevate their hopes.

7. In bringing the question of succession before the chiefs, you will be careful to state the favorable intentions of Government towards the younger sons of influential houses.

Extract paras. 1 to 6 of letter No. 246, and 247 to 252, dated 6th April 1861, from Secretary to Government Punjab, to all Commissioners' except Peshawur Derajat and Hissar.

With reference to your letter . . . reporting the wishes of the jagirdars of your Division on the question of adopting the law of primogeniture, I am directed to issue the following instructions :—

2. Those jagírdars, holding in perpetuity, whose revenue exceeds Rs. 250 per annum, and who wish the succession of their jagírs to be regulated in future by the rules of primogeniture, must execute a deed to that effect. You will explain to them that this deed, when confirmed by Government, will hereafter be binding on their successors in the jagír for all generations. Where such a deed has already been taken, it need only be reviewed with reference to the instructions now conveyed.

3. No deed is to be executed by Chiefs having Sovereign powers.

4. The deed will regulate the succession only to jagír land : not to malguzarí land, or other real and personal property.

5. The jagírdar executing the deed should be invited to record separately the nature and amount of the maintenance which he would propose to assign to the younger branches of his family. The custom regulating such maintenance in the case of the younger brothers of Chiefs, in whose families the rule of primogeniture has been long established, will serve as a guide for other jagírdars.

6. It should be explained that the right of collaterals are in no respect affected by the introduction of the rule of primogeniture.

XXXII.—CESSES ON THE NON-AGRICULTURAL CLASSES.

Extract paras. 2, 3, and 4, of letter No 44, dated 20th February 1860, from Commissioner Amritsar, to Financial Commissioner Punjab.

2. I beg to refer you to Circular No. 13 of 1852, which defines precisely the position of jagírdars ;—" they are not to take more from the land than would be taken by the Government whose place they occupy."

3. Rajah Tej Singh is a jagírdar in the districts of Amritsar, Gurdaspur, and Siálkot, and as such is entitled to the land revenue only: if he has collected any thing from the non-agricultural classes, he has had no right to do so. His jagír has been assessed under the general rules (vide para. 3 of the Circular above quoted), but as a great indulgence, (by your letter No. 4168 of 11th October 1858) he has been allowed to collect his share of the crops of each harvest by appraisement: this order can apply only to the produce of the soil, and can create no right to levy a cess from non-agriculturists.

4. When the Government last autumn introduced the trade tax, all villages, whether jagír or khalsah, were brought under taxation, for the jagírdars' rights are tied up in the four corners of the Government grant. Government have distinctly ruled that every grant dates as a fresh grant (Circulars No. 21 of 1852, No. 59 of 1852) and it is notorious that the land revenue, or a certain portion of the produce of the soil, *only* was granted.

Copy of No. 227, dated 20th March 1860, from the Financial Commissioner (Mr. A. A. Roberts, C. B.) to the Secretary to Government Punjab.

I do not agree with the Commissioner.—Circular No. 13 of 1852, was issued simply with a view to prevent jagírdars from rack-renting their tenants. The present claim of the Rajah is unconnected with the land.—It is to certain cesses, called elsewhere Kamiánah or Atráfi, to which the Rajah has a prescriptive right, and I would admit it.

To illustrate the matter, I send five old appeal cases which were left pending by my predecessor. In four of these cases the right of the jagírdars to collect Atráfi is admitted on all hands, though there is a difference of opinion as to the amount to be collected. Mr. McLeod was of opinion that the local authorities had gratuitously and prejudicially reduced the amount heretofore realized by the jagírdars &c.—I quite concur. I would permit both jagírdars and *zamíndars* to collect whatever Atráfi or Kamiánah they had been accustomed to collect, so long as it was not burdensome on the people subject to it.

The fifth case is merely sent up to show that lambardars occasionally assert their right to take these cesses;—in this particular case their right is not proved . . . . . .

I request the expression of the views of Government in the case of Rajah Tej Singh and the other cases The matter is intimately connected with the question of the taxation of the non-agricultural classes, and as all orders on this subject have emanated direct from Government, and Mr. Cust states that he has mentioned Rajah Tej Singh's claim in his Trade Tax Report, I beg to solicit the orders of Government.*

Copy of paras. 1 and 2 of letter No. 686, dated 22nd May 1860, from Secretary to Government Punjab, to the Financial Commissioner Punjab.

I am directed to acknowledge the receipt of your predecessor's letter No. 227 of the 20th March last, regarding the claim of zamíndars and jagírdars of villages to levy certain cesses from the tenantry and non-agricultural classes, and in reply to inform you that the Hon'ble the Lieutenant Governor concurs entirely in the views of Mr. Roberts, and directs that the existing status be maintained.

2. Rajah Tej Singh will accordingly collect the cesses as before from his jagírs in Bijwat.

XXXIII.—GRAZING TAX IN THE MULTAN DIVISION.

Extract paras. 5, 6, 9, part of para. 12, and paras 16 and 17, of letter No. 313, dated 12th April 1860, from Financial Commissioner Punjab, to Secretary to Government Punjab.

5. I now come to the Multan Division where the subject has been fully discussed, and is ready for the orders of Government. Lieutenant-Colonel Hamilton, the Commissioner, has paid attention to the mode of collecting the tax, and preserving the rights of Government for more than ten years, and it would be presumptuous in me, in a matter of so special a character, to venture to differ with him. Mr Morris, Settlement Officer, at the request of my predecessor, recorded a minute on the subject In addition to this, reports of the annual settlement for 1858-59 and 1859-60 have been received, and confirmed; and I gather that the subject is being attended to by Mr. Blyth, Officiating Deputy Commissioner of Jhang, and the other District Officers, except the Deputy Commissioner of Muzaffargarh, lately transferred from Leiah Division, where the tax has been fixed

* The above is taken from Mr. Roberts' original endorsement on the Commissioner's letter. The letter forwarded to Government has not been traced.

for terms of settlement, instead of being renewed year by year. All that is required is, for His Honor to affirm or modify certain principles upon which the arrangements are based.

6. They are as follows :—

I.—Where is the tax to be collected—where the cattle graze or where the owners reside ?

II.—Are the cattle to be enumerated, and how often ?

III.—Are cows to be taxed ?

IV.—With whom should the contract be made, if farmed ? Or how should the collections be made, if not farme

V.—What privileges to be allowed to agricultural residents of adjoining villages ?

VI.—Should any parties be exempted as objects of favor ?

VII.—Should a tax be laid on fuel ?

VIII.—What arrangements should be made with regard to the farms of sajjí and other jungle products ?

IX.—How are the tracts marked off as rakhs to be disposed of ?

9. Lieutenant Colonel Hamilton, Commissioner, in his letter No. 110 of 30th April 1858, forwards his own opinion embodied in a minute, and an amended set of rules. Mr. Morris', Settlement Officer's, remarks should be read in connection with this paper. The three letters quoted above are submitted in original.

12. * * * * As regards the detached grazing lands which have the character more of ordinary rakhs, Colonel Hamilton submits a separate code of rules.

16. My proposition therefore is that Colonel Hamilton's rules be sanctioned provisionally for two years from May 1860; that the establishment required be also sanctioned, open to revision, year by year, at the time that the Commissioner submits his report of settlement, which he will be bound to do for the four (4) districts of his Division, early in June of each year. As regards the principles laid down in para. 6 of my letter, I suggest that—

I and II.—The enumeration take place yearly,—it is a choice of evils,—and that the tax be levied with reference to the grazing, not to residence.

III.—That milch cows be taxed.—The Commissioner, in his No. 110 of April 1858, mentions that Sir John Lawrence approved of this proposal.

IV.—That no farmers be introduced, but that the collection be made direct by the District Officers, through the Sadr Trinígúzars.

V and VI.—That all who make use of grazing grounds, pay, without any exceptions.

VII and VIII.—That the right of cutting fuel, or turning to profit any of the products of the soil, such as sajjí, be leased out year by year, and be entered in the annual Settlement Report.

IX. That the tracts marked off as rakhs be leased to farmers.

17. As regards Leiah, I suggest that a copy of Colonel Hamilton's rules, with such emendations as His Honor now determines, be forwarded to the Commissioner, requesting him to introduce them from 1st May, or substitute and report others, and requiring an annual report of Settlement. As regards Shahpur, in the Rawalpindi Division, either the rules of Colonel Hamilton, as regards trini, or the practice of the Lahore Division as regards rakhs, must be introduced from May 1st.

Proposed rules for the collection of the Trini tax, and leasing of pasture lands in the Multan Division.

1. All cattle grazing in the Bar, with the exceptions hereafter noted, are subject to the tax at the following rates :—

Male camels,	...	Rs.	1	0	0	per head per annum.
Female do.,	...	„	1	8	0	
Milch buffaloes,	...	„	0	10	0	
Milch cows,	...	„	0	4	0	
Goats and sheep,	...	„	0	0	6	

EXCEPTIONS.

The following animals are exempt from the tax :—

Male camels till their 3rd year ;

Female camels till their 3rd year ;

Cows and she buffaloes till their 3rd year ;

Bulls, oxen, male buffaloes, horses, mares, ponies, mules, and asses.

Cattle found within the limits of the Bar will be considered as pasturing there, and liable to the tax, except when they are the property of strangers.

3. If only one head of cattle of a village or herd is found within the limits of the Bar, the whole cattle of the same description in the village or herd will be liable to the tax.

4. All cattle belonging to persons residing beyond the limits of the Division, if found within its borders, will be liable to the tax, unless when employed in traffic.

5. Payment of the above tax in any district within the Division, will entitle the cattle to graze in any other district of the Division.

6. The tax will be collected through the Sadr Trini-guzars and Trini-guzars, or through the village lambardars.

7. All Sadr Trini-guzars and lambardars will, on a date to be fixed by the District Officers, give lists of the number of cattle liable to the tax and the names of the owners, within their charge or village ; and all Trini-guzars, head-men of jhoks, and owners, are required to give similar list to their superiors, and all changes are to be duly registered in the same manner annually.

8. Sadr Trini-guzars and lambardars will be allowed a deduction of 10 per cent. on the assessment as per list for their trouble and responsibility ; and when the collections are made through the head-men intermediately, these will be entitled to 5 per cent of this

allowance. The Patwarí will receive an allowance of 2 per cent. on the assessment.

9. The trinî year will be the official year, and collections will be made by two equal instalments, due on the 1st of January, and 1st of March, from the Sadr Trinî-guzars; Sadr Trinî-guzars will collect from their clients or rate-payers one month before these dates. Any subordinate rate-payer failing to make good his quota one week after the first of December and 1st of February, may be sued by his immediate superior in the Summary Court. The Sadr Trinî-guzars and head-men shall have power to distrain the cattle on which the tax is due to the extent of the debt, but only in cases of *intent* to abscond. The distrainer to report to the Tahsildar his having made the attachment within one week after it is made, and no cattle to be sold without the order of the District officer, who will be guided by the rules in force for the attachment and sale of property for arrears of land revenue. Illegal distraint to be punished by fine not exceeding 200 rupees, or imprisonment without labor for a term not exceeding 6 months, exclusive of any damage arising from the act.

10. Sadr Trinî-guzars and head-men are to perform the same police duties as lambardars, and to be liable to the same penalties. The District officers will also have power to appoint chaukídars to jhoks in the same manner as in villages.

11. All owners of cattle liable to be taxed, which are found within the prescribed limits, or are proved to have pastured there without being entered in the lists or registers, will be liable to double, treble, or quadruple, the ordinary rates. The amount, if not paid, to be levied as an arrear of revenue, and the defaulter to be liable to imprisonment, if no property is forthcoming.

12. All owners of cattle liable to the tax who do not enter in their returns the full amount of their cattle, will be liable to the penalties in the preceding rule.

13. All Sadr Trinî-guzars, head-men and Patwaris, giving false returns, or in any way conniving at concealment of cattle, to be liable to a fine not exceeding two hundred rupees, to be levied by distraint, and should no property be forthcoming, to imprisonment for a period not exceeding six months, and to make good any loss occurring to Government from this default. In serious cases they may be prosecuted for fraud or forgery with the sanction of the Commissioner.

14. All Sadr Trinî-guzars and head-men are to impound all stray cattle found in the Bar, and to attach the cattle of intruders who are not inscribed in the lists. In default to be liable to the penalties prescribed for conniving at concealment of cattle.

15. A portion of the fines recovered under rules 11, 12 and 13, to be paid to persons giving information leading to the conviction of the offenders or detection of cattle.

16. In the event of the Sadr Trinî-guzars or head-men refusing to accede to these terms, or failing in their engagements, their farms may be let to strangers, or disposed of in farm by public auction. Such leases to be sanctioned by the Financial Commissioner.

17. The settlements with the Sadr Trinî-guzars and zamíndars will be for one year only, but, with the consent of the Financial

Commissioner, may be extended for a term of years, and so also with regard to farms.

18. In all cases not provided for in the above rules, and generally in all matters relating to the tax, the Revenue Officers will be guided by the spirit of the laws now in force for the collection of the land revenue.

19. Appeals will lie from the orders of subordinate officers to their superiors under the rules in force in the Revenue Department.

Rules for leases of separate Pasture Lands.

1. The lands will be divided off into allotments of convenient size according to local circumstances and their existing boundaries.

2. The farms will be disposed of by public auction on leases of one or more year's duration in the usual manner.

3. The farmers will be entitled to levy on cattle grazing within the pasture lands the rates fixed for the Bar; they will also levy fees on male and female camels not liable to the tax, at the rate fixed for full grown male and female camels, and on bulls and male buffalos, at 10 annas each; bullocks and cows not liable to the tax in the Bar, horses, ponies, mares, mules and asses, at 4 each. These rates are not to be increased, but may be lowered at the pleasure of the farmer. The lease will also include the right to cut grass and hay, but not to cultivate.

4. If the District Officer sees it advisable, he may also include in the leases proposed for disposal by auction, the right to cut fuel and gather jungle produce of all kinds within the limits of the farm.

5. No cultivation to be allowed within their limits. The crops of any persons transgressing will be confiscated for the benefit of Government, and the lease be liable to annulment.

6. Farmers of pasture lands will exercise the police powers of lambardars within their farms, and be liable to the same penalties.

7. They may impound all cattle trespassing within their limits, but must not detain them beyond a reasonable time, to be fixed according to distance, before making them over to the nearest public pound.

Extract para. 1, part of para. 2, and paras. 3 and 4, of letter No. 575, dated 26th April 1860, from Secretary to Government Punjab, to Financial Commissioner Punjab.

I am desired to reply to your letter No. 313 of the 12th instant, regarding the grazing tax levied in the pastoral districts of the Punjab.

2. The Lieutenant Governor approves of the rules proposed by Colonel Hamilton for the Multan Division, including the Muzaffargarh district, and authorizes their enforcement from the 1st proximo. But in enforcing them some discretion must be left with the District Officers to relax them in cases to which they may appear inapplicable, and to report the circumstance to the Commissioner * * * * * The scheme of the Settlement Officer at Muzaffargarh to settle the trini for the period of settlement is overruled.

2. The Lieutenant Governor approves Nos. I to IV and IX of the principles upon which the arrangements for levying the tax are

based; Nos. V and VI are also approved, with the exception that parties grazing cattle on their own village lands should not pay any tax. As regards Nos. VII and VIII, I am to state that sajjí may be leased out as proposed, but not to foreigners (Hindustanis) unacquainted with the people, who, by indiscretion, may bring on a disturbance. Wood felled for house consumption should not be taxed, but it might very well pay a small tax if cut and carried for trade to Lahore or Multan, or elsewhere; but the Lieutenant Governor would leave this point to the discretion of Colonel Hamilton for the present. Hereafter, when wood becomes more valuable, the question of taxing it can be dealt with more decidedly.

3. I am to request that the rules hereby sanctioned be carefully translated by the Commissioner and sent to the District officers, and that one year hence, a report on the working of the rules be submitted with any modifications that may suggest themselves.

4. His Honor authorizes the extension of the rules suggested by Colonel Hamilton, to the Leiah Division. The Commissioner to have the power of suggesting any alterations, should he desire to do so. But, inasmuch as the Commissioner of that Division is at present absent on field service in the Wazírí Hills, they cannot be introduced from the 1st proximo. Your proposals regarding the Shahpur district are approved.

Extract from a letter No. 278, dated 11th April 1861, from Financial Commissioner of the Punjab, to the Secretary to Government Punjab.

2. The Commissioner Multan quite concurs in Mr. Cust's proposition, and I beg to recommend accordingly that authority be given for the formation of a fund, as proposed, by laying aside 10 per cent. of the gross trinî collections, for the payment of establishments, and other outlay for improvement of the grazing farms.

Extract paras. 1 and 2 of a letter No. 633, dated 16th April 1861, from the Secretary to the Government Punjab, to the Financial Commissioner for the Punjab.

In reply to No. 278 dated 11th April 1861, approves of the proposals of Mr. Cust, and authorizes 10 per cent. of the grazing tax be laid aside for the formation of a fund for paying establishment and improving the forests.

Adds that the Commissioner should report annually all expenses.

XXXIV.—ABOLITION OF INLAND CUSTOMS, AND ORDERS AS TO COLLECTION OF SALT REVENUE.

Extract paras. 7, 9 to 12, 14 to 17, 28, 30, 34 to 36, 38 to 40, from a letter No. 2766, dated 27th December 1849, from the Secretary to Government of India, to the Board of Administration for the Affairs of the Punjab.

7. By the system established in 1847, under the authority of the Darbar, duties were levied under 20 heads. They comprised duties of custom, both of import and export, excise duties on spirituous liquors and drugs, fines, seigniorage on mints, tolls on ferries, contract of the salt mines, and other things.

9. You propose to do away with the existing system altogether, and to establish another and a simpler system in its place, by which

you expect to obtain hereafter an equal amount of revenue with that which is abandoned, at less expense to the Government, and with direct advantage to the people.

10. You recommend that the customs duties in the Punjab, both of import and export, should be entirely abolished for the future, and you propose to levy—

1. An excise duty on all spirituous liquors and drugs;
2. Tolls on ferries;
3. Stamp duties, which have already been sanctioned.

11. In order to make good the large deficiency in revenue which must be caused by the abolition of customs duties, you propose to add to the three imposts above enumerated an excise duty upon salt, and a complete remodelling of the system by which that large branch of revenue has hitherto been regulated in the Punjab.

12. Instead of letting the salt mines by contract, you propose that the mines shall be worked under the direct control of the Government by agents appointed for that purpose, and you would impose an excise duty of Rupees 2 per Company's maund, payable on the delivery of the salt at the mouth of the mine.

14. The imposition of duties on spirituous liquors and drugs is so invariable a source of income, and so legitimate a one, that no objection can be made to it, and there is reason to believe that it will realize a much larger sum for the treasury than that which has been estimated.

15. The establishment of a regular system of ferries on the large rivers of the Punjab is of benefit to the community, and requisite for the public service. The collection of a toll in return is just, and is already practised in other provinces, and may be fully sanctioned in the Punjab. The time, the Governor General hopes, is not far distant when the income derived from tolls on bridges and ferries may be of far less consequence to the general treasury than it is now, and may then be reserved for local improvements.

16. In like manner the stamp duties which are everywhere levied in our possessions, may be authorized permanently in the Punjab.

17. With regard to the customs duties, the Governor General desires me to observe, that a proposal for their entire abolition both on imports and exports, was one of so large and unusual a character, as to be startling at first sight. A closer examination of it, as it affects an inland country like the Punjab, now transferred to the British Crown, has satisfied His Lordship that the exaction of customs dues from the trade carried on in the Punjab may be discontinued with general benefit, and that another and a preferable mode of raising the the requisite amount of public revenue may be substituted for it.

28. His Lordship is satisfied that the whole of the revenue on imposts abovenamed, (and which must be diminished by the whole charges of collection,) would not compensate for the injury which is done, and the hardships which are inflicted by the existence of an inland customs line. The Governor General thinks that the removal of these abuses would be cheaply purchased by the surrender of the amount abovenamed; and he is clearly of opinion that as the sum

collected is so inconsiderable, and as the entire loss can before long be replaced from another source, the Government will do wisely to act upon your recommendation to abolish all customs duties, and to substitute an excise duty on rock salt in their lieu.

30. The Governor General thinks that you have shewn satisfactorily that the illicit importation of Rajputana and Sind salts (if any exist in the latter country) will effectually be prevented by the prolongation of the North-Western Provinces customs' line to Fazilka on the Satlaj, and thence down the right bank of the Satlaj into Mithankot.

31. The Governor General has hesitated on one point connected with the northern line, and doubted whether it might not be expedient before its removal, to enter upon negotiations with Maharajah Gulab Singh, in order to prevent His Highness from immediately imposing, as an export duty on his goods, the sum which we have removed as an import duty. Upon the whole the Governor General has resolved not to do so The negotiation would probably occupy much time, and it is desirable that the general measures once determined upon should be executed as a whole, with as little delay as possible.

35. You will give your attention to the Maharajah's proceedings in this respect. If His Highness should pursue the course which is apprehended, he may be informed that their is nothing to prevent the line being renewed on this side of the frontier, if he should persist in his impolitic act.

36. You urge very earnestly the removal of the North Western Provinces frontier line on the left bank of the river Biás.

38. The Lieutenant Governor of the North Western Provinces has accordingly been solicited to cause the removal of the Biás line, as soon as may be consistent with existing agreements, and to make the arrangements for the prolongation of the line to Mithankot from the Lower Satlaj, and the transfer of establishments which you have suggested.

39. The annexed memo. transmitted to the Governor General at His Lordship's request, by Mr. John Lawrence, appears to meet every point which requires proclamation or notice.

40. You will take measures for carrying the decision of the Government into effect on the eastern side of the Biás and Satlaj.

Memorandum referred to in para. 39.

The following orders seem all that are necessary:—

1st.—From the first of January 1850 all duties, whether export, import, transit or town duties, now leviable in the British possessions west of the rivers Satlaj and Biás, with the exception of a tax on salt, are abolished.

2nd—By this order, the western line running along the banks of the Indus to Mithankot, that on the right bank of the Biás and Satlaj, commonly called the eastern line, and that lying along the foot of the hills between Maharajah Gulab Singh's territories and the British possessions, known as the northern line, including the duties on timber now levied on the rivers Ravi, Chanab and Jehlam, with any town duties which still exist, are abolished.

Thus the entire trade of the Punjab, with the single exception of salt, is made free.

3rd.—From the first of February 1850 the excise on salt shall be raised to 2 rupees per maund of 40 seers* weight, which shall be collected at the mines from which the salt is excavated. The duty of 2 rupees per maund to cover all charges.

4th.—From the 1st of February 1850, or from such date as the Board may fix after due proclamation, the manufacture of alimentary salt throughout the Punjab is declared illegal, and the rules and penalties laid down in Act XIV of 1843, subject to such modifications as the Board may from time to time deem expedient, shall be in force.†

5th.—The Customs Line east of the rivers Bías and Satlaj, known as the North West Line, shall be at once extended from near Fazilka to the river Satlaj, and thence down the right bank to opposite Mithankot.

6th.—The new line shall form part of the North West Line, and shall be under the orders of his Honor the Lieutenant Governor of Agra, who shall at once organize an efficient establishment for it. The transit of salt either from east to west or from west to east, shall be permitted subject to a duty of Rs. 2 per maund, provided it has not already paid duty at a British Custom house. But no duty in excess of 2 Rs. per maund shall be levied, nor shall any duty be collected on this portion of the North West Line, except on salt.

7th.—At the expiration of the period fixed by the Lieutenant Governor of Agra in the notification marginally* noted, or as soon after as may be convenient, that portion of the North West Line, from where it will, by para. 5, cross the Satlaj, upto near Basaolí on the Raví, shall be abolished, and no duty shall be hereafter levied at any place but on the North West Line as it will then stand, and at the salt mines in the Punjab.

* No. 1386, Separate Revenue Department, dated 19th April 1849, published in the *Agra Government Gazette* of the 24th April 1849.

"No reduction of the duty of Rs. 2 per maund "at present levied on salt passing North Western "Frontier Line will take place without six months "previous notice."

XXXV.—RULES FOR THE PROTECTION OF THE REVENUE DERIVED FROM THE SALT MINES IN THE SIND SAGAR DOAB AND AT KALABAGH.

No. 1690, dated 29th May 1851, from Secretary to the Government of India, with the Governor General, to the Board of Administration for the Affairs of the Punjab.

I am directed to acknowledge the receipt of your Secretary's letter No. 495, under date the 12th instant, submitting draft of proposed Rules for the protection of the Punjab Salt Revenue, and in reply to inform you that the Governor General approves of the rules in question.

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* NOTE.—Seer 80 tolas.

† Under Act I of 1865, Section 2, the Lieutenant Governor extended to the Punjab and its Dependencies so much of Act XIV of 1843 as relates to the manufacture of alimentary salt, and the prevention and punishment of the illicit manufacture and exportation of such salt.—*Smyth's Acts applicable to the Punjab, volume I., p.* 64. This extension seems scarcely to have been necessary.

Rules for the realization and protection of the revenue derived from the Salt Mines in the Sind Sagar Doab, and at Kalabagh.

The salt in these mines is the property of the State. The mines are worked, and the produce sold, for the benefit of the Public Revenue.

2. The price of salt at the mines has been fixed at (2) two rupees per Government maund.

3. Persons desirous of purchasing salt from the mines may pay the price of the quantity they intend to purchase into the treasury of the Collector of Salt Revenue, or into that of any district in the Punjab. In the latter case, the officer in charge of the treasury will grant a receipt for the money so paid.

4. On presentation of such receipt, or on payment of the money into his own treasury, the Collector of Salt Revenue will the same day deliver to the purchaser a "Rowanah," or pass, written in English and Persian, and Nagarí, specifying in addition to other necessary particulars, the quantity of salt that has been purchased, and the mine at which it is to be delivered.

5. The Rowanah is to be in duplicate, and is to be signed by the Collector, and by his Sarishtadar and Treasurer. It is to have effect for two months from the date it bears.

6. On the merchant or his agent presenting the Rowanah to the Patrol or Assistant Patrol in charge of the mine, that officer will allow him to fill his bags at the store, and when they are filled he will have each weighed, and will ascertain that the total quantity agrees with that specified in the Rowanah; then after entering the particulars of the Rowanah in his Register, he will endorse the original and duplicate, giving the former to the merchant to accompany his goods, and sending the latter to the Collector with his daily report.

7. Purchasers are expected to remove the salt as soon as possible to some spot beyond the limits defined in paragraph 9.

8. Should anything, however, occur to prevent the removal being effected within the term of the Rowanah, the purchaser is to present a petition to the Patrol, Deputy Collector, or Collector, at least three days before the expiry of the term. The petition shall contain a statement of the cause of the delay, and if the reasons given are satisfactory, the Collector may extend the term to any period not exceeding four months from the date of the Rowanah; should the salt not be removed within four months, the term may be further extended by the Commissioner of the Jhelum Division, who is in charge of the Salt Revenue Department, but this extension will be conditional on payment of a fine equal to one-twentieth of the amount paid for the Rowanah. Should the reasons given for the non-presentation of the Rowanah or non-removal of the purchased salt, within the original or extended term of the Rowanah, not be satisfactory, the Commissioner may declare the Rowanah cancelled and the purchase money forfeited.

9. The powers of the officers of Government to interfere with the salt obtained from the mines of the Sind Sagar Doab and of

Kalabagh,* is hereby limited to a space which extends around each mine or salt bed to a distance of ten miles; but whenever the right bank of the river Jehlam lies within the ten miles, that bank is the limit of jurisdiction.

10. Within the limits defined in the foregoing paragraph, it is lawful for all officers of the Salt Establishment to search any carriages and packages upon reasonable grounds of suspicion that such carriages or packages contain salt not covered by a Rowanah; and if the salt thus found exceed one seer, the officer shall retain it, and and if it exceeds five seers, he shall also detain the carriages and animals used in transporting the same.

11. If the salt thus detained exceed five seers, the Collector of Salt Revenue shall, with all practicable despatch, report the case for the determination of the Commissioner of the Jehlam Division, and it shall be lawful for that officer to confiscate the salt, and also the carriages and animals, or to impose such lesser penalty in lieu thereof as may to him seem fit.

12. Within the limits defined in paragraph 9, it is lawful for all officers in the Salt Department to apprehend any person on reasonable grounds of suspicion that such person is liable to punishment under these rules, and to make him over for trial with all practicable expedition to the nearest Deputy Commissioner, Assistant Commissioner, or Extra Assistant Commissioner.

13. Within the limits defined in paragraph 9, the Collector of Salt Revenue, the Deputy Collector, the Patrols, and Assistant Patrols, may search any house said to contain illicit salt. after taking the deposition of the informer, and obtaining the attendance of the Police. The search is to be made by day-light.

14. Every person having in his possession, within the limits defined in paragraph 9, salt exceeding five seers, and not protected by Rowanah, or purchased from a licensed vendor according to paragraph 19; as also every person who excavates salt without being employed to do so by the Salt Department, becomes liable, on conviction by a Deputy Commissioner, or Assistant Commissioner, or Extra Assistant Commissioner, to be punished by a fine not exceeding Rs. 500, and on non-payment thereof, by imprisonment for a term not exceeding six months, with or without hard labor.

15. Also every person aiding or abetting, or wilfully conniving at the offences mentioned in the foregoing paragraph, is liable to the penalties therein stated, whether he may himself be within the limits stated in para. 9 or not.

16. If the salt found in the possession of any person within the limits defined in paragraph 9 exceed one seer, but do not exceed five seers, it shall be confiscated, and that person will be liable to pay a fine equal to the value of the salt. The Deputy Collector, Patrol, or Assistant Patrol, may demand the fine, and in event of its being paid, he will release the person, and retain the salt, reporting the case to the Collector, who is competent to pass orders upon it. Should the party not pay the fine on being first apprehended, he is to be sent immediately to the nearest Deputy Commissioner, or Assistant Com-

* And also Sambhar Salt.

missioner, and on proof of the facts before that officer, he will be liable to imprisonment with or without labor for a period not exceeding 15 days.

17. Parties wishing to purchase salt for the purpose of retailing it at places within the limits defined paragraph 9, must state this to the officer in charge of the mine at the time they are purchasing it, and that officer, provided the quantity applied for be not more than is required for the purpose avowed, will grant permission, reporting the case to the Collector. The person who thus receives salt for retail, within the limits above defined, must keep a register of daily sales; and must give each purchaser a certificate which is to contain a statement of date of sale, the name of the purchaser, and the quantity purchased. The Board of Administration will issue from time to time such further rules to regulate the retail sale within the limits defined in para. 9, as may by experience be found conducive to the convenience of the public, and protection of the revenue.

18. Persons who, within the limits above defined, are in possession of salt purchased from a retail vendor, licensed under the foregoing paragraph, will be held exempt from all the penalties above described for possession of salt unprotected by a Rowanah, provided they can produce the retailer's certificate above referred to, and provided, also, they conform to the bye-laws, which, as above stated, will be issued on this subject as occasion may require.

19. Every despatch of salt, though covered by a Rowanah, shall, while it remains within the limits defined in paragraph 9, be liable to one re-weighment by the Collector, or any person bearing a special order from him, or by the Deputy Collector, Patrol, or Assistant Patrol.

20. Should the examination show that the despatch exceeds by more than 5 per cent. the amount stated in the Rowanah, the parties shall be liable, at the discretion of the Commissioner of the Jehlam Division, to a fine not exceeding double the value of the excess of the Government price. But if the despatch amounts to more than 10 per cent. beyond the quantity entered in the Rowanah, the whole shall become liable to confiscation, or to such lesser penalty as the Commissioner may determine; and in addition to this, the parties concerned in the fraud will be liable to the penalties stated in para 14.

21. Throughout the whole extent of country which is included between the Indus to the west, and the Biás and Ghara to the east and south, the manufacture of alimentary salt is prohibited, as is also the possession of this description of salt, or of any rock salt, excepting that obtained from the mines of Sind Sagar and Kalabagh.*

22. For the enforcement of this rule, two lines of posts are to be established: the one to be on the Indus; the other to join the Sirsa Customs' line at Amroki Ghat on the Satlaj, to be carried down the right bank of that river, and to terminate at Mithankot. When the exact position of these lines has been determined, it will be notified in the Government Gazette.

* And of Sambhar Salt imported from the North Western Provinces.

23. The jurisdiction of the officers of the Salt Department is hereby declared to extend upon these lines from a chain of posts to the river on the one side, and to a distance of five miles on the other. Where the line crosses a river, the jurisdiction is to extend from the line five miles up stream, and the same distance down; such for instance is to be the case on the Satlaj at Amroki, on the Chanab at its confluence with the Satlaj, and on the Indus at Mithankot.

24. The administration and collection of the Salt Revenue is vested in the Collector, under the superintendence or control of the Commissioner of Multan in respect to the Satlaj line, and under the Commissioner of the Jehlam Division as regards the mines of the Sind Sagar Doab and the Indus Line.

25 Within the limits defined in the 23rd para., it is lawful for all officers of the Salt Establishment to search any carriages and packages upon reasonable grounds of suspicion that such carriages or packages contain contraband salt, and to retain any salt so found; and should the amount exceed one seer, the boats, carriages, and animals, used in transporting the same. If the salt does not exceed one seer, the Collector of Salt Revenue will order it to be destroyed.

26. Whenever the salt thus detained exceeds one seer, the case is to be reported with all practicable expedition for the determination of the Commissioner in charge of the Preventive Line, and if that officer be satisfied that the salt is not the produce of the Sind Sagar or Kalabagh mines,* he shall direct that it be destroyed, and he may declare the boats, carriages and animals to be confiscated, or impose such lesser penalty in lieu thereof as may to him seem fit.

27. Also within the limits defined in paragraph 23, it is lawful for all officers of the Salt Department to apprehend any person on reasonable grounds of suspicion, that such person is liable to punishment under these rules, and to make him over with all practicable expedition to the nearest Deputy Commissioner.

28. Within the limits defined in paragraph 23, the Collector of Salt Revenue, the Deputy Collector, the Patrol, and Assistant Patrol, may search any house or boat said to contain illicit salt, after taking the deposition of the informer, and obtaining the attendance of the Police. The search is to be made by day-light.

29. All officers of Police, and all officers of Government engaged in the collection of the land revenue, are empowered and required to aid and assist the officers of the Customs Department in the execution of these rules.

30. Within the tract defined in paragraph 21, it is incumbent on Deputy Commissioners and their Assistants, to destroy all works for the manufacture of salt, and to apprehend the persons concerned in the manufacture These officers are required to seize all salt of of every description, but that obtained from the Sind Sagar mines or from Kalabagh,† and they are also to apprehend the possessor of such illicit salt if the amount exceed one seer. The seizure is to

* Or Sambhar Salt. † Or Sambhar Salt.

be reported to the Commissioner of the Division, and the salt is to be destroyed under his orders.

31. Within the tract defined in paragraph 21, the Tahsíldars and Thanahdars may search for salt factories or for illicit salt, on receipt of creditable information, and on recording the evidence of the informer. They may also suppress factories they themselves see in operation, and seize illicit salt which they see exposed for public sale. In all these cases they may apprehend the parties concerned in the manufacture, and the possessors of the illicit salt if it exceed one seer. But with the foregoing exceptions, the Police and Revenue Establishments subordinate to the Deputy Commissioner are not authorized to interfere of their own instance, but are to confine themselves to giving the earliest information of the existence of salt factories or illicit salt, and to carrying out the special orders which they receive in each case.

32. Every person having in his possession, within the limits defined in paragraph 21, contraband salt exceeding one seer, and every person engaging in the manufacture of salt; and all proprietors of land and their agents conniving at such manufacture, or concealing the existence of contraband salt, shall, on conviction by a Deputy Commissioner, Assistant Commissioner, or Extra Assistant Commissioner, be liable to be punished by a fine not exceeding 500 rupees, and on non-payment thereof, by imprisonment for a term not exceeding six months, with or without hard labor.

33. All Deputy Commissioners, Assistant Commissioners, and Extra Assistant Commissioners, are competent to receive and determine all charges on account of offences against these rules, and all sentences passed in pursuance of these rules shall be open to appeal in regular course.

34. A moiety of all fines imposed under these rules will be given to the informers or captors, and if the fine be not realized, this moiety will be paid on account of Government, and be charged to the Salt Department.

35. Any officer of the Salt Revenue Establishment, or of the Preventive Line, who shall without reasonable grounds of suspicion, search any carriage or package, shall, upon conviction thereof before the Deputy Commissioner, within whose jurisdiction the offence may have been committed, be punished with a fine not exceeding 250 rupees, which fine shall be paid over to the party aggrieved, and on non-payment of such fine, with imprisonment not exceeding three months; and any officer of the aforesaid department who shall under color of these rules, apprehend any person without reasonable grounds of suspicion, that such person is liable to punishment under these rules, shall, upon conviction before the Deputy Commissioner within whose jurisdiction the offence may have been committed, be punished with fine not exceeding 500 rupees, which fine shall be paid over to the party aggrieved, and on non-payment of such fine, with imprisonment for a period not exceeding six months.

36. On receipt of the sanction of Government to the foregoing rules, a proclamation is to be issued and posted up in every Kachahrí and Revenue and Police station, in the territories west of the Bías

and Satlaj, and east of the Indus, explaining briefly the prohibitions and the penalties attached to the breach of these rules.

Notification.

With the sanction of the Supreme Government, it is hereby published and proclaimed, that six months from the date of this notice—to wit, on the 21st April 1860, the price of salt at the mines under the superintendence of the Collector of Punjab Salt Revenue, will be raised from two Rupees to two Rupees two annas per maund of 80 lbs.

The price of salt at the Kohat mines will not be affected.

NOTE.—The sanction of the Supreme Government was conveyed in letter No. 6154, dated 5th October, to the Punjab Government. The Notification appeared at p. 383 of the *Punjab Gazette* for 1859.

The 19th March 1861.

Notification.—It is hereby notified for general information, that an increase in the price of Government salt, sold at the mines in the Rawalpindi Division, will be made six months from the date of this Notification.

No. 1381.

The 24th August 1861.

Notification.—In pursuance of the foregoing notification, it is now hereby proclaimed that the price of all Government salt sold at the mines in the Rawalpindi Division, will, on and after the twentieth day of September 1861, be raised from two rupees, two annas, to three rupees per maund.

NOTE.—These Notifications appeared at pp. 128 and 566 of the *Punjab Government Gazette* for 1861.

No. 360.

The 5th March 1861.

Notification.—It is hereby notified, for general information, that, under the orders of the Governor General in Council, the duty upon salt imported into the Punjab provinces across the Delhi Customs Line has been raised to the maximum amount permitted by Act I of 1860, namely, to three rupees per maund.

NOTE.—This notification appeared at p. 103 of *Punjab Government Gazette* for 1861.

XXXVI.—DUTY ON SACCHARINE PRODUCE CROSSING THE DEHLI AND SATLAJ PREVENTIVE LINES.

No. 468.

The 23rd March 1861.

It is hereby notified for general information that the Customs duty levied on the export of saccharine produce from the Punjab and

its Dependencies, across the Dehli Customs Line, has been increased, and will be charged and demanded at the following rates, *viz.* :—

On the export of all clayed and refined sugar, one rupee per maund.

On the export of all unclayed and unrefined saccharine produce, six annas per maund.

No 701.

The 30th April 1861.

It is hereby notified for general information, that it is in contemplation shortly to levy, on all saccharine produce passing down the Satlaj, or crossing from its right to its left bank, west of Fazilka, the same rates of duty which are levied on the article when crossing the N. W. Customs Line.

No. 1263.

The 5th August 1861.

The following is published in correction of the Notification No. 701 of the 30th April last, regarding levy of duty on saccharine produce :—

It is hereby notified for general information that it is in contemplation shortly to levy, on all saccharine produce passing down the Satlaj or crossing the Satlaj Preventive Line, west of Fazilka, the same rates of duty which are levied on the article when passing the North West Customs line.

NOTE.—These Notifications appeared at pp. 184, 225 and 513 of the *Punjab Government Gazette* for 1861. The intention announced in the second and third was carried out by Notification No. 26, dated 9th January 1862, (p. 19 of *Punjab Government Gazette* for 1862,) extracted in Smyth's Acts applicable to the Punjab, volume I, p. 518. This duty can hardly be considered as resting on a sufficient legal footing, except so far as it is in accordance with the Notification dated 30th April 1861.

How the duty on saccharine produce crossing the Dehli line towards the North Western Provinces was originally established, I have failed to discover. Act XIV of 1843, which imposed a duty on such produce exported from the North Western Provinces across the Dehli line, prohibited the import, and though this prohibition was repealed by Act XIX of 1854, no duty was imposed by that Act.

XXXVII.—IMPORTATION OF SAMBHAR SALT INTO THE PUNJAB.

Copy of letter No. 3148, dated 3rd June 1856, from Secretary to the Government of India, Foreign Department, to Chief Commissioner of the Punjab.

I am directed to acknowlege the receipt of your Secretary's letter dated the 30th April last, No. 326, and in reply to inform you that the Governor General in Council sanctions the importation into the Punjab, after the payment of duty in the North Western Provinces, of Sambhur salt *only*, the restrictions in regard to all other foreign taxed salts being maintained as heretofore.

XXXVIII.—RULES RELATING TO THE MANAGEMENT OF THE TRANS-INDUS SALT MINES.

Extract paras. 1 to 4, and part para. 5, of letter No. 125, dated 1st February 1850, from Secretary to the Board of Administration Punjab, to the Deputy Commissioner of Peshawar.

In my letter No. 26, dated the 10th ultimo, in which, by order of the Board of Administration, I reminded you that the excise upon salt was not intended to apply to the Trans-Indus salts, I stated also that the Board would shortly issue instructions regarding the Indus Salts.

2. They have since received a report from Mr. Carne, drawn up after his visit of inspection to the Trans-Indus Salt Range, and containing his suggestions as to the best means of securing the salt on this side from competition with that on the other side of the Indus. A copy of this report I am desired to forward to you for your information, and to request your particular attention to the conclusions which the Board have come to on this important subject.

3. And first I am to impress upon you that the object of prime importance to be kept in view in any measure for the control of the salt mines and restricting the sale of salt Trans-Indus, is the preservation of the peace of the country, which would certainly be hazarded by attempting to enforce a rigorous system for the purpose of collecting revenue from salt.

4. The Board look for a revenue from salt mainly to the Cis-Indus mines, and not to those Trans-Indus, and therefore the main object of the arrangements for the control of the Trans-Indus Mines should be, to prevent the salt of those mines from interfering with the success of the salt excise Cis-Indus.

5. A high tax on Trans-Indus salt could not be levied without coercing the hill tribes, and the expense of doing this would be greater than any profit the tax would be likely to yield . . . . . .

Extract para. 4 of letter No. 62, dated 13th April 1850, from Officiating Under Secretary to Government of India, to the Board of Administration Punjab.

4. His Lordship in Council entirely approves of the orders which were issued by your Board in Mr. Secretary Melvill's letter of the 1st February, to the Deputy Commissioner at Peshawar, and he is glad to learn from your letter of the 16th March, that you have left the local officers in charge to fix the duty which should be levied.

Extract paras. 2 to 7 of letter No. 474, dated 28th March 1850, from Secretary to the Board of Administration Punjab, to Major Taylor, Deputy Commissioner Derah Ismail Khan.

2. The principle by which the Board would wish you to be guided in the arrangements you may make is this, that the people should be conciliated, and the influential classes induced as much as possible to side with the authorities: you cannot have the support of a military force, and therefore it behoves you to be cautious that you do nothing likely to create an exigency in which you would feel the want of such support.

3. The duty and responsibility in connection with the control over the mines after the arrangements have been made, will belong as heretofore to the Deputy Commissioner of Peshawar. The Board's object now is to settle the terms upon which traders are to be supplied with salt from the mines, and they consider that your position renders it expedient that this duty should be entrusted to you.

4. Colonel Lawrence let out the mines last year to a contractor for 53,000 rupees—the Board would not object to see the system reverted to, the mines being let for a given sum for one year certain, the contractor paying all expenses and taking all risks.

5. If this is the arrangement made, you should fix a maximum beyond which the contractor should be bound not to sell. It is of great importance that the contractor should be a man of weight, taken from an influential class, a religious character, a mallik, or, if a body with representatives contract, so much the better. The kists should be paid monthly, and the contractor should have the option of paying at any treasury which is most convenient to him.

6. The proprietors of the soil in the vicinity of the mines might be allowed a per-centage on income, conditional on their doing their best to keep the peace ; no seizures should be made Trans-Indus, and the contractor should make his own arrangements *at the mines*, and should have no preventive establishment, except that which he keeps at the mines.

7. The Board wish you clearly to understand that there is to be but one charge upon Trans-Indus salt, that, namely, which is imposed upon it by the arrangements made at the mines, and that when this charge has been paid, the salt is to have a free passage in any direction except Cis-Indus, where it would interfere with the excise upon salt.

Extract paras. 6 to 8 of letter No. 493, dated 3rd April 1850, from Secretary to the Board of Administration Punjab, to Major Taylor, Deputy Commissioner, Dera Ismail Khan.

6. Your plan of giving salt to the Khattaks and Bangash clans is a good one, but it is a question whether a road, as you propose, *viâ* Khushalghar and Attak into the Peshawar district, could be made in the present state of the country.

7. As to the rate to be fixed on the salt, the Board leave it to your discretion : they incline to 4 annas per maund, rather than 8 annas. You will understand that though the Board in my letter of the 28th ultimo stated that they would have no objection to your reverting to the contract system, they did not intend to prescribe this to you as the system you should certainly adopt.

8. You are right in judging that the Board do not look to the Trans-Indus mines for revenue, they desire arrangements by which the country shall be kept peaceful. Salt should pass free on all the Trans-Indus tract, having been once paid for at the mines. The proprietors of the mines should have a share of the profits, as already intimated in my letter of the 28th ultimo.

Copy of letter No. 10, dated 22nd May 1850, from Secretary to the Government of India, Foreign Department, with the Governor General, to the Board of Administration for the Affairs of the Punjab.

No. 167 dated 2nd April 1850.
„ 171 dated 4th ditto.
„ 182 dated 9th ditto.

I am directed to acknowledge the receipt of your Secretary's letters noted in the margin, communicating the orders issued by your Board to Major Taylor relative to the settlement of the salt question across the Indus. Those orders, in the estimation of the Most Noble the Governor General, are quite in the spirit of the instructions sent to you by the Governor General in Council, and His Lordship hopes to hear that Major Taylor has settled the matter by fixing the price at 4 annas a maund or at some point sufficiently low.

NOTE.—The four annas rate was that adopted at some of the mines, while at others a rate of two annas or three annas was fixed instead.—*See Selections from the Records of the Government of India, Foreign Department, No. XII, p. 50.* These rates have since continued in force. The instructions contained in this correspondence appear to be the only rules applicable to the management of the mines Trans-Indus, but the rules contained in Government of India No. 2766, dated 27th December 1849, and Act XIV of 1843, so far as extended by that letter, were apparently applicable to both sides of the Indus, except, of course, as regards the rate of duty.

XL.—SALT WORKS IN GURGANW DISTRICT.

Extract from a letter No. 821, dated 29th July 1859, from the Secretary to Government of the Punjab, to the Financial Commissioner of the Punjab.

I am directed to acknowledge the receipt of your letter No. 440 dated 13th instant, soliciting orders as to the future management of the salt works in the Jhajar district, and in reply to convey the approval of the Hon'ble the Lieutenant Governor to your recommendation that the system of farming the manufacture of salt, as practised by the late Nawab, be continued in force, in preference to carrying the customs line through it. The contracts may also be renewed year by year.

Extract part of para. 8, para 9, and part of paras. 13 and 14, of letter No. 243 dated 10th March 1860, from Financial Commissioner Punjab, to Secretary to Government Punjab.

8. On every ground therefore, I am of opinion that the manufacture of earth salt in the Gurganw and Jhajar Districts, should be maintained and fostered, but I think that the works in the three outlying villages of Rattanthal, Yahidpur and Sailana, might be suppressed as proposed by the Commissioner of Customs, but I would not interfere with Balpore and Kaleawar, which are situated close to the main group * * * * * *

9. I now proceed to consider what the future management of the salt villages should be. The Nawabs of Jhajar and Farukhnagar used to derive a revenue—the former of Rs. 30,000 per annum, the latter of Rs. 8,000 per annum—from farming out the Government lien (Hakmushari) on these works. But within a mile or two of the Jhajar and Farukhnagar salt producing villages, are three villages,* situated in the old district of Gurganw, from which we never took any *hakimi* share, but which we surrounded with a cordon of customs' chaprassis, and contented overselves with levying the usual customs' duty before

* Sadrana, Lydpur, Mahmúdpur.

permitting the salt to be removed. We dealt similarly with the Noh group of salt villages, further south in the Gurganw district.

13. Government has long since given up any claim to proprietary rights or profits in the salt works in the old district of Gurganw, and such claim cannot now be revised * * * * *

14. * * * * In the case of land, Government assigns proprietary right to the zamindars, and exacts a revenue or tribute for the privilege thus bestowed: I would do the same in the case of the salt works, would leave the proprietary right with the zamindars, and would merely exact the customs duty.

Copy of a letter No. 1948, dated 20th December 1860, from Secretary to Government Punjab, to Financial Commissioner Punjab.

The Lieutenant Governor has had under consideration your letter No. 243, dated 20th March 1860, relative to the salt manufacture and the revenue derived therefrom in the Jhajar and Gurganw districts.

2. Your proposals (in which the Commissioner of Customs concurs) are:—

1*st*.—That the manufacture be not suppressed, save in the three outlying villages of Rattanthal, Yahidpur, and Sailana, in which you propose that the manufacture shall be suppressed with the least possible loss to the parties concerned in it.

2*nd*.—That the system of farming out the hakimí share of the salt manufacture in certain villages confiscated from the Nawabs of Jhajar and Farukhnagar shall be abandoned, as was formerly done in the case of other villages in the Gurganw district. The revenue derived from these works in 1858-9 amounted to Rs. 11,12,859.* But the Commissioner of Customs considers that a much greater sum would be realized if the salt produced was subjected only to the customs duty of Rs. 2-8 a maund on crossing the line.

3. The Lieutenant Governor concurs in the views taken by the Commissioner of Customs and yourself, and accordingly sanctions the abrogation of the farming system from the expiration of the current lease.

XLI.—MANUFACTURE OF SALTPETRE—ALIMENTARY SALT.

Extract part of para. 3 of No. 738, dated 4th June 1860, from Secretary to Government, to Financial Commissioner.

The suggestion contained in para. 3 of Mr. Wright's letter may be carried out at once. The manufacture of saltpetre in the Punjab should be restricted to a pure description, refined at the place of manufacture, so that no more than 10 per cent of salt remain in it. . . . . .

Extract para. 2 of letter No. 1862, dated 10th December 1860, from the Secretary to Government Punjab, to the Financial Commissioner Punjab.

2. His Honor approves of the modification of his former proposal suggested by Mr Wright, *viz.*, that earth containing more than 30 per cent. of salt should not be used for the manufacture of saltpetre.

* This seems to be much too large, but is the amount stated in the letter.

Copy of a letter No. 691, dated 15th December 1859, from the Secretary to Government of India, to the Secretary to Government of Punjab.

I am directed to acknowledge the receipt of your letter No. 791, dated the 26th ultimo, forwarding copies of correspondence relating to the enhancement of the tax on the manufacture of saltpetre in the Punjab, and in reply to inform you that the proceedings of His Honor the Lieutenant Governor are approved by the Governor General.

The correspondence forwarded by Punjab Government letter No. 791 dated 26th November, consisted of the letters printed in Book Circular No. XXXVIII of 1859, with Punjab Government No. 1313, dated 20th October, to Commissioner of Sind. The letter containing the rules made by the Punjab Government, and issued in that Circular, was the following:—

Copy of letter No. 1312, dated 20th October 1859, from Secretary to Government Punjab, to the Officiating Financial Commissioner for the Punjab.

I have received and laid before the Hon'ble the Lieutenant Governor your letter No. 788, dated 19th instant, regarding the elimination of alimentary salt, in the process of manufacturing saltpetre, and I am directed to reply as follows:—

2nd.—The Lieutenant Governor entirely approves of the suggestions contained in your 5th para., *viz.*, that the duty on saltpetre pans be raised from two to four rupees (Rs. 2 to 4) each per annum, and the tax on "agars" from rupees eight to twelve (Rs. 8 to 12) each per annum. You are authorized to issue the necessary orders for introducing these enhanced rates, and you will fix the time when they are to come into operation, reporting the same to this office.

3rd.—A reference has been made to the Commissioner of Sind in regard to the matter mooted in your 7th para., *viz.*, the extraction of salt from crude saltpetre in the Sind province by a second boiling.

4th.—The original correspondence received with your letter under reply is herewith returned as requested.

NOTE.—Act XXXI of 1861 *(to regulate the manufacture of saltpetre and the sale of salt educed in the refinement thereof)* having been extended by the Governor General to the Punjab under the provisions of Section 18, licenses are now required to be taken out for the manufacture of saltpetre, &c., but this is held not to interfere with the duty per pan &c., imposed by the above rule.

XLII.—ABKARI.—RETAIL OF IMPORTED LIQUORS AND OF LIQUORS MANUFACTURED IN INDIA AFTER THE EUROPEAN METHOD.

Copy of a letter No. 509, dated 21st July 1856, from Secretary to the Chief Commissioner, to the Secretary to the Government of India, Foreign Department.

I am directed to submit copies of a letter No. 267, of the 30th ultimo, and its enclosures, regarding the sale of foreign imported liquors, and those manufactured after the European method in this country.

2. The Chief Commissioner concurs in the views of the Officiating Commissioner Cis-Satlaj States and the Financial Commissioner,

and recommends their proposition for the sanction of the Right Honorable the Governor General in Council, as follows :—

Firstly.—That the retail sale of imported liquors be permitted without the demand of excise duty, subject to the payment only of a license fee. But this fee at present amounts only to 16 Rs. per annum, which appears to the Chief Commissioner too low. He would therefore suggest that it may be raised to 32 rupees, if such enhancement be practicable ; and

Secondly.—That in respect to liquors manufactured on the European method in India (except beer) the permission to sell muster bottles be withdrawn, and that wholesale vend be permitted as at present, but that retail sale should not be allowed except under the usual Abkari laws.

Copy of a letter No. 4509, dated 29th August 1856, from Secretary to Government of India, to Chief Commissioner Punjab.

I have received and laid before the Governor General in Council your Secretary's dispatch dated 21st ultimo, No. 509, recommending a modification of the rules at present in force in the Punjab, relative to the sale of foreign imported liquors, and of liquors manufactured in this country after the European method.

2. In reply I am directed to inform you that His Lordship in Council is pleased to accord his sanction to the changes proposed, (including the larger fee for licenses,) seeing that they are expedient, and that good and sufficient reasons have been given for them in your despatch and in the papers which accompanied it.

NOTE.—These rules were published by Financial Commissioner's Circular No. 53, dated 23rd September 1856, with which the correspondence was circulated. They are still in force, except that the license fee has been altered by the Financial Commissioner in his Book Circular No. XIV—58 of 1868, in virtue of the authority with which he has been invested under Section 27 Act XXI of 1856, and Section 2 Act XXVIII of 1864.

XLIII.—ABKARI IN MILITARY CANTONMENTS.

Copy of a letter No. 261, dated 11th October 1853, from Officiating Secretary to Government of India in the Military Department, to the Chief Commissioner of the Punjab.

I am desired by the Most Noble the Governor General in Council to transmit the accompanying copy of a dispatch from the Adjutant General of the Army, No. 918 of the 17th September 1853, and to request that, in compliance with the recommendation of His Excellency the Commander-in-Chief, you will be good enough to issue the most positive orders that the sale of liquor in the Abkari at Jalandhar be strictly confined to what may be drunk at the liquor shops, and that no pass-chits shall be granted on any account whatever to allow of liquor being taken away therefrom.

Copy of a lettter No. 1685, dated 28th December 1859, from Secretary to Government Punjab, to the Financial Commissioner Punjab.

In reply to your letter No. 977, of the 13th instant, on the subject of leasing out the Abkári mahal in the different Military Cantoments, I am direct to inform you that the Honorable the

Lieutenant Governor concurs in your views and authorizes your carrying out your proposals as an experiment.

Financial Commissioner's Book Circular No. I—5, dated 13th January 1860, was issued under the authority conveyed in this letter. It is here subjoined; the form of lease circulated with it being omitted, as a revised form has been substituted by Financial Commissioner's Book Circular No. XIV—58 of 1868.

BOOK CIRCULAR No. I OF 1860.

Circular No. 5, dated 13th January 1860, to all Commissioners.

Circulates a form of lease for the Abkari in Military Cantonments.

I have the honor to circulate herewith a form of lease for the Abkari in Military Cantonments, which has received the sanction of Government, and which I request may be henceforth observed in supersession of all leases heretofore in use.

2. The lease explains itself, so that in enjoining its observance, I only desire to draw your attention to paras. 44 and 45 of Abkari Circular Order No. 1, dated 1st May 1857, Sadr Board of Revenue North Western Provinces (published at page 371 of the new Edition of *Directions to Revenue Officers*) which enjoin the use in future of the fasli year for abkari contracts. Leases now current will be allowed to run on till the end of their term Fresh leases will then be given from the date of expiry of the old one, until the 30th September next; and then the rules will come into full play, and the lease will be put up annually for the year beginning 1st October and ending 30th September next following.

3. Your attention is requested to the following points in the new form of lease, which are innovations upon the practice hitherto adopted in most Cantonments:—

1st—Prohibition of pass-chits on any pretence whatever. All liquor sold must be drunk on the premises.

2nd.—Regimental Bazars are to be leased separately from Regiments. To every Regiment is attached a large number of personal attendants whose movements depend on the movements of the Corps. Besides this body of liquor consumers, every Regimental Bazar contains a considerable stationary population. The lease for the Bazar then may be well discriminated from that for the Regiment, for the former is permanent, while the latter should fluctuate according to the number of troops present at any time, and this may vary daily.

3rd—Prohibition of sale of liquor on Sunday. It is notorious that Sunday is, among numbers of the lower castes, the stated day for carousals, which are alike disgraceful and dangerous. The legitimate profits of the Contractor will in no ways be diminished by the distribution over the other six days of the sale of liquor, which would otherwise all have been drunk on the Sunday, nor will the revenue suffer.

4. These have all been introduced into certain places as experiments with signal success, and I desire their universal adoption in

in the next, and all future contracts. A vernacular translation of the new lease accompanies.

XLIV.—ACREAGE ON GROWTH OF THE POPPY.

Extract from a letter No. 288, dated 9th April 1860, from the Financial Commissioner of the Punjab, to the Secretary to the Government of the Punjab.

11. Let Government enfranchise the cultivation of the poppy in the Divisions of Amritsar and Lahore certainly, and in those of Trans and Cis-Satlaj States, if the Commissioners agree, and it must be remembered that the great mass of the opium consuming Sikh nation reside in those Divisions, and there also the glut of cereals in most severely felt. Let it be extensively made known that from the present sowing season the cultivation of opium is liable only to the conditions of registering the area in the patwaris book, and paying a cess of 2 rupees per acre to the Tahsildar. The right of sale to accompany the right of consumption everywhere within the Divisions within which this system prevails, and eventually within the Punjab Provinces.

12. At the time of the sale of the opium contracts, let the bidders be informed that the sale and consumption of home produced opium is unrestricted; no doubt the farm will fall, and we must look to the deficit being made up this year, or in the course of years, by the income from the tax on the poppy cultivation. The farm will practically be only of imported opiuin sold to residents of cities and towns. If no farmer come forward, the sale of opium must be conducted at the Government Tahsil as is the case in the Regulation Provinces. No inconvenience will arise therefrom. I should be very glad to have the experience of the direct sale of opium for one year in the cities of Lahore and Amritsar. We should have our opium direct from Gházipur, and retail it, and thus expel the Mandi article.

18. Post, or a decoction of poppy-head, will follow the regulations with regard to opium.

Extract from a letter No. 614, dated 4th May 1860, from Secretary to the Government of the Punjab, to the Financial Commissioner of the Punjab.

In reply to your letters No. 276 and 288, dated the 2nd and 9th ultimo, regarding the cultivation of opium, I am directed to inform you that the Honourable the Lieutenant Governor approves o. your proposals and authorizes the plan suggested by you being tried in the four Divisions of the Province specified by you. Accordingly, two rupees per ghumao should be levied on the cultivation of poppy, the cultivators being permitted to sell the produce to whomever they choose.

3. The new system may commence from the 1st of June next.

NOTE.—Cultivators in districts where the acreage system is in force, are now prohibited from selling to any one but a licensed contractor or his agent—*Notification of the Government of India, in the Financial Department, No. 58, dated 17th April 1869.*

LIST OF RULES WHICH SEEM TO HAVE ACQUIRED THE FORCE OF LAW UNDER THE INDIAN COUNCILS' ACT, BUT ARE OMITTED AS HAVING BEEN SUPERSEDED OR AS OBSOLETE.

No. 2668, dated 21st June 1854, para. 4, from Secretary to Government of India, to Secretary to Chief Commissioner, authorizing charge of 3½ per cent. on revenue collected by Government officials for jagírdars in the Cis-Satlaj States,—the authority for Financial Commissioner's Circular No. 24 of 1854. —*This charge was abandoned by order of the Lieutenant Governor in* 1860,—*Punjab Government letter No.* 473, *dated* 5*th April* 1860, *to Financial Commissioner.* (See Financial Commissioner's Book Circular No. XIX—29, dated 13th April 1860.)—*The letter is omitted as it merely repealed the rule made in* 1854.

No. 6154, dated 5th October 1859, from Government of India, Foreign Department, to Government, Punjab, conveying the sanction of the Governor General in Council to the increase of the duty on salt from Rs. 2 to 2 Rs. 2 annas per *man*, and to the imposition of a license duty on traders and shop-keepers. Also Punjab Government No. 1356, dated 29th October 1859, to Financial Commissioner, communicating the instructions of the Lieutenant Governor on both subjects, and authorizing the substitution for the license tax of a treble octroi in towns where the latter was preferred by the people.—*Omitted, as the notification dated* 19*th October* 1859, *and a subsequent notification increasing the price of salt, have been given already* (*see page* 335), *and as the license tax and the enhanced octroi in lieu of license tax were abandoned when the Income Tax Act, No. XXXII of* 1860, *was brought into operation in the Punjab.*

Government of India No. 4281, dated 20th September 1860, postponing the operation of the Income Tax Act in the Punjab till the 1st November 1860, but laying down a rule for deductions from salaries of Government servants before that date.—*Expired.*

Punjab Government No. 72, dated 12th January 1861, to the Judicial Commissioner, asserting the right of Government to regulate the succession to jagir and istamrari tenures.—*Omitted, as being repealed by Government of India letter No.* 4092, *dated* 25*th July* 1861, *to the Punjab Government, renouncing any such claim unless where the power had been expressly reserved in the grant.*

Punjab Government No. 1261, dated 19th October 1859, to Financial Commissioner, on the subject of the occupation of land required for canals,—the authority for Financial Commissioner's Book Circular No. XCII, dated 24th October 1859. Punjab Government No. 193 dated 30th January 1860, cancelled the order contained this letter, and directed that the rules contained in the Board of Administration's Revenue Circular No. 48 of 1850, should remain in force (*vide* Financial Commissioner's Book Circular No. VIII—13, dated 6th February 1860). *The rules of* 1850 *are briefly stated in Financial Commissioner's Book Circular No. III—*14, *dated* 21*st January* 1861, *and it is therefore unnecessary to reprint those rules and the Government letter of* 1860, *especially as the Government has now power to make rules, if necessary, under Act X of* 1870.

NOTE.—Government of India letter in the Financial Department, No. 3467, dated 18th July 1856, to the Chief Commissioner, approved of rules for checking pensions contained in Board of Administration's Revenue Circular No. 69 of 1850, and in Financial Commissioner's Circular No. 91 of 1855. This letter is omitted, as there is nothing in the rules which Government could not order in its executive capacity. The same may be said of the rules for the grant of dowries to female pensioners on marriage, passed by the President in Council in the Financial Department on the 4th June 1858—*Financial Commissioner's Book Circular XIII—*53, *dated 3rd July* 1858.

CHAPTER V.

RULES ON MISCELLANEOUS SUBJECTS.

The subjects embraced in this Chapter are the following :—

(1).—Canals.
(2).—Forests.
(3).—Tolls and Ferries.
(4).—Supply of Carriage for Troops.
(5).—Town duties.
(6).—Dehli clearances.
(7).—Rules for travellers on the frontier.
(8).—Rules for European travellers visiting Kashmír.

They are treated of here, as where they had any connection with the subjects of the preceding chapters, there were reasons for keeping them separate. Canals and Forests, for instance, though they may be regarded as sources of revenue, are under the management of separate departments; Ferries are, by the Regulations, placed under the management of the Magistrate, while the collection of tolls, and the management of Local Funds, form part of the duties of Collectors; and arrangements for supplies for troops, which, in the Regulation Provinces devolve upon the Collector, have here been considered to form a branch of the duties of the Deputy Commissioner as Magistrate.

As there is no relation between the various subjects included in this chapter, it will be most convenient to place the rules on each subject immediately after the notice of them.

I.—Canals.

Act VII of 1845 was made applicable to the Haslí Canal by Government of India No. 3642, dated 7th November 1851, to the Board of Administration, but it does not appear that any rules were made or published under the Act. The Haslí Canal, however, afterwards became a branch of the Barí Doab Canal, and by Resolution No. 1584, dated 24th August 1860, the Act was made applicable to that canal from the 1st September 1860, and rules for the management of the canal were published.

The Act had already been made applicable to the Western Jamna Canal and other irrigation works in the Dehli Division, by Resolution of the Lieutenant Governor, North Western Provinces, published in the *Agra Government Gazettes* for 1845 and 1846, and the rules made for these continued in force on the transfer of the Dehli and Hissar Divisions to the Punjab. In 1854, before the transfer, the control of the beds of all rivers and streams in tracts connected with these canals, unless where declared at settlement to belong to the proprietors of the adjoining villages, had been placed under the Canal Officers by the Lieutenant Governor, North Western Provinces, in letter No. 426A, to the Board of Revenue. This order would seem to have acquired the force of law in the Dehli territory under Section 25 of the Indian Councils' Act.

Inundation Canals,—Derah Ghazi Khan, Multan, and Montgomery Districts.

There are, however, in the southern part of the Punjab, a number of minor canals, called Inundation Canals, as they derive their supplies of water from the rivers while in flood, to which Act VII of 1845 has never been expressly extended. For those in the Derah Ghazi Khan district rules were sanctioned by the Governor General in Council, in letter of Secretary to Government of India, Public Works Department, No. 4377 dated 11th September 1857, to the Chief Commissioner of the Punjab. For those in the Multan district rules were made by the Lieutenant Governor in 1859, *(letter No.* 301, *dated* 15*th March* 1859, *to the Director of Canals) ;* and in the same year he made rules for the management of the Upper Satlaj Inundation Canals, *(No.* 1076, *dated* 14*th September* 1859, *to Commissioner and Superintendent Multan,)* these being in the Montgomery district. It is observable that No. 24 of the Multan rules, and No. 8 of the Upper Satlaj rules, give the Canal Officers powers under Act VII of 1845, though that Act has never been expressly declared applicable to these canals, and though the rules have not been published as required by Section 1 of the Act. Section 25 of the Indian Councils' Act, 1861, would seem to cure any defect in these powers. It has also been usual to gazette the Canal Officers attached to the Inundation Canals as exercising powers under Act VII of 1845, though the powers should rather be described as under these rules, Act VII of 1845 never having been made applicable, and, in the case of the Derah Ghazi Khan canals, the powers of the Canal Officer being regulated by Rules 7 and 8 only.

These rules for the management of Inundation Canals must be regarded as still in force with reference to the canals to which they respectively apply; but it is understood that the Punjab Government has taken steps with a view to legislation in regard to all canals in the province, and in any such legislation the opportunity will of course be taken of providing for the case of these canals as well as of others in regard to which there is at present no law whatever.

There are many of the provisions in these rules which Government was evidently quite competent to make in its executive capacity, without legislation, and in regard to these it would no doubt still be competent to make any changes which it may from time to time consider necessary, as there is no reason why the force of law should be attributed to any rule made by Government, where its power to make the rule could not have been questioned before the passing of Indian Councils' Act. But it was necessary to print the rules at length, as their real scope and character could hardly have been understood if they were given in a fragmentary form, all those which did not appear to be of the nature of legislation being omitted.

ACT VII OF 1845 MADE APPLICABLE TO THE HASLI CANAL.

Copy of a letter No. 3462, dated 7th November 1851, from Secretary to the Government of India, with the Governor General, to the Board of Administration for the Affairs of the Punjab.

I am directed by the Most Noble the Governor General to acknowledge the receipt of your Secretary's letter dated the 23rd ultimo, No 1110, with its enclosure, and in reply to inform you that, in compliance with the requisition of your Board, His Lordship has directed that Act VII of 1845 be made applicable to the Haslí Canal.

2nd.—His Lordship has also been pleased to vest the Executive Officer, or his Assistant, with the powers of a Joint Magistrate and Deputy Collector under Section VIII of the above Act.

3rd.—His Lordship is further pleased to empower your Board to draw up Rules for the regulation of water-rent, the supply of water, and the payment of tolls on boats and rafts. Your Board will be pleased to submit these Rules for the sanction of His Lordship previous to their being published for general information.

ACT VII OF 1845 MADE APPLICABLE TO THE BARI DOAD CANAL.

PUBLIC WORKS DEPARTMENT.

No. 1584.

Dated Lahore, 24th August 1860.

RESOLUTION.—The Honorable the Lieutenant Governor is pleased to direct that Act VII of 1845 shall be applicable to the Barí Doab Canal, with effect from the 1st of September next.

The Executive Engineers of the several divisions of the Canal are hereby invested with the powers of Assistant Commissioners for the levy of rates and dues, and for the enforcement of penalties under the said Act; and their Assistants are declared competent to exercise the same powers under the directions of the Executive Engineers, and subject to their control. The subordinate establishment of the Executive shall exercise the powers of subordinate revenue and police officers, for the purposes above described. An appeal from the order of the Executive Officer or his Assistant shall lie to the Commissioner of the Division. But it shall be open to the Executive Officer at his discretion to revise the order of his Assistants within ten days from the date on which the order may be passed, and his decision in such cases shall be appealable to the Commissioner. In the event of the orders of the Assistants not being revised within ten days by the Executive Officer, as above stated, appeals from them will lie to the Commissioner alone.

The jurisdiction of the Barí Doab Canal officers exercising the powers of Assistant Commissioners under the aforesaid Act, shall extend over all places within the established boundaries of their respective Divisions, and for ten yards on each side of every channel supplying water to more than one village, and over the bed and banks of every channel supplying water to a single village, and over every plantation, building, and enclosure, the property of Government, and under the charge of such officers. Beyond these limits they shall have concurrent jurisdiction with the Deputy Commissioners of districts, for the pursuit and apprehension of offenders against the provisions of the aforesaid Act.

The following rules for the managements of the canal are sanctioned, subject to such modification as may appear necessary hereafter.—*Punjab Government Gazette for* 1860, *p.* 342.

NOTE.—The Rules are not reprinted, as being made and published under the Act they derive their force from it, and not from Section 25 of the Indian Councils' Act. They are to be found at pp. 77 to 86 of the 1st volume of *Smyth's Acts applicable to the Punjab.*

CONTROL OF BEDS OF STREAMS CONNECTED WITH CANAL TRACTS IN THE DELHI TERRITORY.

Extract paras. 11th to 13th of a Report No. 3049, dated 17th April 1854, from the Superintendent of Canals North Western Provinces.

11*th.*—I would here remark on the advisability of establishing, as a general rule, in all tracts connected with canals, that the rivers with which they are connected should be entirely under the control of the Superintendent General of Canals and Irrigation, that no bridges, bunds, or works of any description, should be built on them without his concurrence, and that he should be held responsible for their proper and efficient maintenance free from the evils of marsh and inundation.

12*th.*—I am satisfied that had the Superintendent of the Eastern Jamna Canal had any control over the lines of the Naogauw and Maskarra above alluded to, and had he been held responsible for their proper condition, although the evils complained of might not have been entirely prevented, they would have been to a great extent modified.

13*th*.—I think that the attention of the Canal Officers ought to be directed to the relief of this tract of country from the evils which the canal works have undoubtedly brought upon it, and that the country ought to be relieved without reference to the profit and loss calculation of Lieutenant Morton's 5th paragraph.

Extract para. 12th of Board's letter address to Government, No. 429, dated 6th June 1854.

12*th*. The remarks contained in paras. 11th to 13th of Lieutenant Colonel Cautley's No. 3049, dated 17th April last, on the general question of the control of all rivers and streams in the tracts connected with canals, and the relief of the line of country injured by the Eastern Jamna Canal, are of great importance. The Board entirely agree with Lieutenant Colonel Cautley, and solicit the orders of His Honor the Lieutenant Governor on both of those questions.

Extract para. 3 of Government Order No. 426 A, dated 21st June 1854.

3*rd*.—His Honor also fully approves the recommendation of Lieutenant Colonel Cautley, supported by the Board in para. 12 of your letter, for placing the control of all rivers and streams in tracts connected with a canals under the responsible control of the Canal Officers, and he anticipates important advantages from the adoption of this measure.

The interference of the Canal Officers will of course not be exercised within limits in which the beds of rivers and streams may, by the settlement, have been declared to belong to the engaging proprietors, but this, it is apprehended, will scarcely have occurred in any case. The Officiating Superintendent of Canals, North Western Provinces, will be furnished with copies of para. 12th of your letter under reply, (which refers to Lieutenant Colonel Cautley's letter No. 3049 of the 17th April last,) and of the present para., and will be authorized at once to give effect to the view here sanctioned upon all the canals under his direction.

MANAGEMENT OF INUNDATION CANALS, DERAH GHAZI KHAN.

Copy of a letter No. 4377, dated 11th September 1857, from Secretary to Government of India, Public Works Department, to Sir John Lawrence, K. C. B., Chief Commissioner of the Punjab.

I am directed to acknowledge the receipt of your Officiating Secretary's letter No. 286—1544, of the 15th July, forwarding, for sanction, a copy of rules drawn up by the Superintendent of Canals in the Punjab, Lieutenant Dyas, for the future management of the Indus Canals in the Derah Ghazi Khan district, and to state that, as the fitness of these rules is concurred in by the local authorities, who, for the most part, must be the best judges, the Right Honorable the Governor General in Council is pleased to approve them.

2. I am, however, to observe that as this office is unacquainted with the previous system of management in force, it cannot form an opinion of any innovations that may be involved in the present proposals. It is not clear also whether the laborers furnished in quotas by the villages are to be paid in money, though as cash expenditure

is contemplated, being provided for in the 1st rule, it may be presumed so.

3. In regard to the contribution by Government of half the expense of repairing the embankments referred to in rule 2, I am desired to state that such an arrangement is deemed reasonable and fair.

Regulations proposed for the future management of the Indus Canals in the Derah Ghazee Khan District.

The preparation of the annual estimate for the clearance of the Indus Canals will, in future, be undertaken by the Superintendent Inundation Canals, in the same manner that it has hitherto been done, after inspection of the canals and consultation with the zamindars. This estimate will show the sum absolutely necessary for the clearance of the mouths and channels. The Chief Commissioner having already decided that one-half only of this estimate will be defrayed by Government, the other half falling on the zamindars; this estimate will, if agreed to, be countersigned by the District Officer, to imply that the zamindar's share will be duly levied by him.

2. As from the state of the whole of these canals it is highly desirable that a certain amount should be yearly devoted to the gradual repair of the embankments, the District Officer will endeavour to ascertain, before next cold weather, from the principal zamindars what amount they are willing to contribute annually (in addition to their clearance share) towards the repair of the banks, on the understanding that Government will (as doubtless it will be willing to do) contribute an equal amount towards this most desirable object.

3. The chers will be collected in the usual way by the Tahsildars, and made over to the Canal Officers for the work required.

4. The District Officer will cause to be prepared for the Canal Officer, a tabular statement of the villages or zamindars furnishing the chers for each canal, showing the number at which each is assessed, so that the demand for cher labor may be fairly apportioned. Any difference which it may be thought desirable to make in the present cher regulations, either as to rate of pay, or rate of assessment on the several villages, will only be made with the sanction of the District Officer.

5. The duties of the Canal Officers will be to control and superintend the works which will be carried on entirely under their direction and on their responsibility.

6. As a general rule the chers will be made over to the Canal Officers not later than the 1st of January, and earlier if possible, and they will be discharged on the 15th of April, or as soon as the river rises sufficiently to admit of a good current in the canal, on the water being let in. In case of emergency, however, the Superintendent Inundation Canals may direct the chers on any canal to be kept at work till the 1st of May.

7. The Assistant Superintendent of Canals to have the power of imposing a fine, not exceeding 4 annas per head, on any gang for idleness and insubordination. The fine to be enforced by the Tahsildar on the Parwanah of the Assistant Superintendent, who will furnish a memo. of such fines to the Deputy Commissioner.

The appeal from decisions of the Assistant Superintendent to lie to the Superintendent Inundation Canals, and from him to the Commissioner.

8. The Canal Officers to have also the power of fining to the amount of 10 Rupees, to be enforced as above, for any minor breach of Canal Regulations; any serious case for which a heavier punishment is considered necessary will be handed up to the Deputy Commissioner.

9. A few simple rules, as below, defining what constitutes trespasses, will be published in vernacular, for distribution to the different villages.

10. Fines of all kinds will be carried to the credit of the Canal Department, and the amount will be made over to the Canal Officer for canal improvement,* [but at the proper season as much of it as may be required for the collection of the chers will be temporarily made over to the Tahsildar for that purpose.]

11. The appointment of the Darogahs, Muharrars, &c., sanctioned by Government will be made by the Canal Officers.

12. The Commissioner will sanction the appointment of Lambardars or other influential residents to be Darogahs, should such appointments be found advantageous, and with the view of inducing the people themselves to undertake works of improvement.

13. No change in the old course of any canal, nor any permanent alteration, shall be made without consulting the Deputy Commissioner. This rule does not however apply to the opening of a new mouth to the canal, or any other urgent work of this nature.

14. In case of any emergency in the non-working season, the Canal Officer will have the power of calling out the necessary chers.

15. The Canal Officers will exercise a general superintendence over the distribution of water to the different villages. The Commissioner agrees that it is a matter of great importance to get permanent heads built to the village water-courses leading from the main canal as soon as possible, by means of which the distribution of the water may be regulated. Should Government not consent to supply the necessary funds, it will be an object to induce the villagers to construct them themselves.

16. Any bridges that may be required over the canals will be built under the superintendence of the Canal Officers; the design having first been approved of by the Director of Canals.

17. As a general rule, when canals and roads cross, the newer of the two works should defray the cost of the bridge required at the crossing: when a new canal crosses an old road, the canal should bear the expense; when a new road crosses an old canal the road should pay.

List of Trespasses of Canal Regulations.

1. Crossing cattle over the canal, or watering them at other than the appointed ghats or watering places.

* What follows is placed in all copies of the Rules obtainable at Lahore, (the original not being forthcoming,) at the end of Rule 11. I have transferred it to this place, to which it evidently belongs.

2. Constructing a dam or bund of any kind, or a spur in the canal channel, without the permission of the Canal Officer.

3. Wilfully causing the destruction of any dam, bund, or spur constructed by the order of the Canal Officer, either in the canal itself, or in any rajbaha or water-course.

4. Opening a fresh cut from the canal or from a rajbaha, without permission of the Canal Officer.

5. Digging earth from the embankments for brick-making, or for any other purpose, or any way injuring or breaking down the embankments.

6. Wilfully injuring bridges, water-course heads, or other masonry works.

7. Wilfully injuring water-gauges, bench marks, or removing other marks laid down by the Canal Officers.

8. Throwing rubbish or filth of any kind in the canal, or in any way defiling the water.

9. Cutting trees from the canal banks without the permission of the Canal Officer.

MANAGEMENT OF MULTAN INUNDATION CANALS.

Extract paras. 1 and 2 of letter No. 301, dated 15th March 1859, from the Secretary to Government Punjab, to the Director of Canals.

I am now directed, with reference to your letter No. 1848, dated 4th instant, and to the antecedent correspondence . . . . . relative to the present condition and management of the Inundation Canals in the Multan district, to transmit, for your information and guidance, copy of the new rules on the subject, which, originally drafted by Mr. Morris, Settlement Officer, and modified by the Commissioner of Multan, have been finally revised and approved by the Honorable the Lieutenant Governor in conference with the Financial Commissioner and yourself.

2. By these rules the Executive and Magisterial functions to be exercised by the Superintendent are defined; the system according to which the canals are to be repaired, thoroughly regulated; provision is made for the expenditure of the "zar nagah" or commutation money on the scientific improvement of the works; and the functions of the Civil authorities in regard to the canals are explained.

Rules for the future management of the Multan Inundation Canals.

Superintendence.

1. All the canals of this district to be placed under the charge of one officer, to be called the Superintendent of Multan Inundation Canals, and subject only to the authority of the Director of Canals.

Management.

2. The management of the canals to be solely and entirely in the hands of the Superintendent, under the supervision of the Director of Canals.

Powers of Superintendent.

3. The Superintendent to be also an Assistant to the Commissioner for the decision of all disputes connected with the distribution of canal water, &c., &c. All such cases to be decided in the first instance by the Superintendent, an appeal lying to the Commissioner only.

Deputy Commissioner to consult the Superintendent in certain cases.

4. The Superintendent to be consulted by the Deputy Commissioner in all cases of remission, suspension, or re-distribution of revenue, in all estates receiving canal water, provided such cases are connected with the irrigation from the canal. To guide the Superintendent in forming an opinion in such cases, he will be furnished by the Deputy Commissioner with detailed statistical statements of the means of irrigation, number of chers, amount of revenue, &c., furnished by every village on each canal, as shewn by the settlement papers.

Establishments.

5. All establishments sanctioned for the canals to be placed directly under the Superintendent, whose authority over them will be complete. The Superintendent also to be vested with the powers of an Assistant Magistrate with Special Powers in cases in which his own establishments are concerned, an appeal lying to Commissioner only; but all other orders, as for instance, dismissal for inefficiency, misconduct, &c., can be appealed only to the Director of Canals.

Appointment of Sadr Muharrar and Peons abolished.

6. All the establishments sanctioned by the Government for the management of the canals will be appointed by the Superintendent, whilst the appointment of Sadr Muharrar and Peons, hitherto made by the Civil authorities and employed at the Tahsíls, to be abolished, their service being no longer required under the new arrangement.

Changes affecting the revenue only to be effected in consultation with the Civil authorities.

7. No change in the old course of any canal, nor any permanent alteration in the canal irrigation, affecting in any way the payment of the revenue as fixed at the settlement, shall be made by the Superintendent without consulting the civil authorities; whilst any re-assessment of the chers, rendered necessary by permanent alterations in the canal, must be effected by the Superintendent in concert with the civil authorities.

Disbursements from the zar nagah.

8. The proceeds of all past collections on account of "zar nagah," *i. e.* fines levied from defaulters, to be placed at the disposal of the Superintendent, subject to the orders of the Director, to be expended on generally improving the canals. In cases of great emergency, special sanction, prior to disbursements from this fund, will not be necessary to enable the Superintendent to carry on urgent improvements, and he will thus be empowered to make disbursements to the amount of Rs. 200 on any one work, and only required in such cases to submit to the Director of Canals monthly bills of expenditure, unaccompanied by detailed estimates. In all other cases the sanction of the Director must be obtained prior to disbursements.

Sanction required before Government funds are expended.

9. No Government funds can be expended by the Superintendent without special sanction, to be obtained through the Director of Canals, to whom also must be submitted detailed estimates, &c., as laid down in the Public Works Department for all projects requiring special Government sanction.

Assessment of chers.

10. The total number of chers annually required for the clearance of each canal to be definitely determined on by the Settlement Officer in conjunction with the Canal Officers; the number thus fixed on will hold

good for the term of three (3) years, after which a re-assessment will take place as provided for in Rule 7.

Panchayats.

11. A panchayat, to be chosen for each canal separately, comprised of 9, 7, 5, and 3 members, respectively, according to the class to which the canal belongs.

Chaks of villages.

12. All the villages of each canal to be marked off into a number of topographical chaks or circles, according to their position on the canal; the number of circles thus fixed on to correspond with the number of members comprised in the "Panchayat," one member being elected from each chak.

Appointment of Panchayats.

13. The Panchayat to be in the first instance selected by the Settlement Officer. It will be entirely under the control of the Superintendent, who, for neglect, incompetency, &c., can discharge any of the members, and appoint another in his stead; the substitute however must be chosen from the chak from which the discharged member was originally elected. An appeal will lie from such orders of the Superintendent to the Commissioner only.

Mauzawar lists to be furnished by Panchayats.

14. On the 15th September of each year, each Panchayat will be called on by the Superintendent of Canals to furnish Mauzawar lists of all the chers on the canal according to the distribution of the water during the past season, the total number of chers for the entire canal always corresponding with the number originally fixed on by the Settlement Officer according to rule 10. These lists must be furnished by the 15th October at latest.

Lambardars to furnish Asamiwar lists.

15. On receiving the *Mauzawar* lists from the Panchayat, the Superintendent will call on the Lambardars of each village to furnish *Asamiwar* lists, giving the names of the chers to be called out. These lists must be furnished by the 15th November at latest.

Calling out of the chers.

16. On receiving the *Asamiwar* lists, the Superintendent of Canals will make arrangements for calling out the chers, so that the clearance may be commenced on by the 15th December. The calling out of the chers, assembling them, arranging for their food, &c., &c., will remain entirely in the hands of the Superintendent, who will make his own arrangements, no duties of the above nature devolving on the local civil authorities as heretofore.

Chers how to be employed.

17. The chers to be kept at work until the complete clearance of the canal, which having been effected, the Superintendent may, if he see fit, keep the chers at work on improvements (as strengthening embankments, correcting the slopes of the bed, cutting down spoil banks, &c.,) until the expiration of three months from the date of the commencement of the clearance, but no longer on any account whatsoever.

And for what period.

Of course, if the clearance is not completed within three months, no improvements can be attempted; nor has the Superintendent power to commence on repairs, which are not absolutely and emergently required for the purpose of passing along the water, until the clearance is completed.

N. B.—Digging a new mouth is to be considered a part of the regular clearance.

Commutation money in lieu of labor.

10. All chers will have the option of working at the clearance, or paying a fine of 4 annas per diem in lieu of labor. On the date fixed for the commencement of the clearance, the names of all the chers will be called over, those absent will be summoned and given the option either of working or paying down within the period of 15 days the commutation money for the entire period of clearance at the rate fixed above.

How to be realized in default of payment.

This amount, if unpaid within the above period, will be levied through the Tahsildar by means of distraint of personal effects, under the same rules as distraint for arrears of revenue.

And how leviable from absentees.

19. Any cher having attended at the clearance, and quitting it within one month from the commencement of the working season, will have to pay the entire commutation money for the whole season, but if he quit after the expiry of one month, then he need only pay the difference of the commutation money for the rest of the season.

20. Weekly lists of all absentees will be made out by the Muharrar and Panchayat in charge of the canals, and presented by them to the Superintendent, who will issue the necessary orders regarding the same.

The Superintendent responsible for efficient clearance of the Canals.

21. The Superintendent of Canals will be held personally responsible by Government that every canal under him is efficiently cleared in time to admit of an early supply of water. If this is not effected by the chers, he must do it by hired labor, and without requiring specific instructions from the

Labor may be hired for such clearance.

Director of Canals, but simply reporting his having done so and stating his reasons. This report to be made *on the necessity for the measure becoming apparent;* and it should give an idea (in round numbers) of the amount which the Superintendent thinks he must spend on the canal in question: the amount will be taken from the zar nagah.

Hired laborers liable to the same penalties as chers for breach of contract.

22. All hired laborers entertained by the proprietors to supply the places of chers, but failing to do so, and thus breaking their contract with their employers, will be liable to the same penalties as chers under rule 18: provided always that all such contracts have been attested either by the Superintendent of Canals, or Tahsildar of the parganah.

Fines on chers.

23. The Superintendent of Canals to have the power of imposing a fine not exceeding 4 annas per head on any gang of chers for idleness and insubordination; such fine being enforced by the Tahsildar on the parwanah of the Superintendent, and realized by mazkuris on 2 annas a day paid by the chers in addition to the fine.

Trespass.

24. The Superintendent to have also power of dealing with cases of trespass and breach of canal regulations under the provisions described in Act VII of 1845.*

* This would seem to mean that the penalties prescribed by Sections 3 and 6 of the Act may be enforced by the Superintendent. The Act has not been declared applicable to these Canals, nor the rules published, as required by Section 1.

Attendance of Panchayat at clearance.

25. One-third of the Panchayat must always be present at the clearance. The list of absentees weekly submitted by the muharrars to the Superintendent of Canals must be verified by the signature of such members of the Panchayat as should be present at the clearance; without this it will not be considered valid.

Certain exemptions of chers to Panchayats.

26. In the event of the Panchayat giving satisfaction to the Superintendent, each member will be entitled to have 2 chers exempted from attendance, the number thus exempted being deducted from the total number of chers fixed on for the canal. Neglect of duty, non-attendance at the clearance in their regular turn, &c., will entirely forfeit all claims to consideration and exemption, of which, moreover, the Superintendent will be sole and final judge.

Appointment and payment of Mírabs. Complaints against asamiwar distribution, and mauzawar distribution how to be disposed of.

27. The appointment and payment of "Mírabs" to be hereafter determined on by the Canal Officer in conjunction with the Panchayat. All complaints against the *asamiwar* distribution of chers to be disposed of by the Panchayat; whilst all petitions against the mauzawar distribution will be heard by the Superintendent only, provided they are presented by the 1st November at latest. Appeals from such orders will lie to the Commissioner.

Opinion of the Panchayat to be acted on where possible.

28. In all general questions regarding the clearance, use of "chhaps," "thals," &c., the Panchayat will be consulted, and, if possible, their opinion acted on. In the event of the Superintendent over-ruling the wishes of the Panchayat, he must record his reason for so doing.

Apportionment of labor to chers.

29. All questions as to which villages dig only to their boundaries, and which entirely throughout the canal, will be settled by the Panchayat; but after the completion of the clearance, all the chers will be liable to be employed in general improvements, &c., until the expiration of the three months fixed on in rule 17.

Superintendent may call out chers on emergency in the non-working season.

30. In case of any emergency in the non-working season, the Superintendent will have the power of calling out the necessary chers.

Bridges over canals.

31. Any bridges that may be required over the canals will be built under the superintendence of the Canal Officers, the design having first been approved of by the Director of Canals.

Cost of bridges, how to be charged where canals and roads cross.

32. As a general rule, where canals and roads cross, the newer of the two works should defray the cost of the bridge required at the crossing: when a new canal crosses an old road, the canal should bear the expense; when a new road crosses an old canal, the road should pay.

33. A few simple rules defining what constitutes trespasses will be published in the vernacular for distribution to the different villages.

Vernacular notices regarding trespass.

Endorsement by Director of Canals, Punjab.

True copy, with alterations made in Lahore on the 2nd March 1859, in conference with His Honor the Lieutenant Governor and the Financial Commissioner.

List of Trespasses of Canal Regulations.

1. Crossing cattle over the canal or watering them at other than the appointed ghats or watering places.

2. Constructing a dam or bund of any kind or a spur in the canal channel, without the permission of the Canal Officer.

3. Wilfully causing the destruction of any dam, bund, or spur constructed by the order of the Canal Officers, either in the Canal itself or in any rajbaha or water-course.

4. Opening a fresh cut from the canal or from a rajbaha without permission of the Canal Officer.

5. Digging earth from embankments for brick-making or for any other purpose, or in any way injuring or breaking down the embankments.

6. Wilfully injuring bridges, water-course heads, or other masonry works.

7. Wilfully injuring water-gauges, bench marks, or removing other marks laid down by the Canal Officer.

8. Throwing rubbish or fifth of any kind into the canal or in any way defiling the water.

9. Cutting trees from the canal banks without the permission of the Canal Officer.

MANAGEMENT OF UPPER SATLAJ INUNDATION CANALS.

Extract para. 1 of a letter No. 1076, dated 14th September 1859, from Secretary to Government Punjab and its Dependencies, to the Commissioner and Superintendent Multan Division.

I am directed to forward copy of the rules for the management of the Upper Satlaj Inundation Canals. It was the wish of the Lieutenant Governor that their issue should be delayed until the rules applicable to the Bari Doab Canal had been determined, but as it has been represented that inconvenience has already been felt from their being withheld, I am now to request that you will give them immediate effect.

Rules for the future management of the Upper Satlaj Inundation Canals.

1. These canals to be placed under the charge of one officer, to be called the Executive Engineer of the Upper Satlaj Inundation Canals, and subject only to the authority of the Director of Canals Punjab.

Canals to be under one Executive Engineer, subject to the Director of Canals.

2. The management of the canals to be solely and entirely in the hands of the Executive Engineer, under the supervision of the Director of Canals.

The Executive Engineer to be also an assistant to Commissioner.

3. The Executive Engineer to be also an Assistant to the Commissioner, for the decision of all disputes connected with the distribution of canal water. All such cases to be decided in the first instance by the Executive Engineer, an appeal lying to the Commissioner only.

Deputy Commissioner to consult the Executive Engineer in certain cases.

4. The Executive Engineer to be consulted by the Deputy Commissioner in all cases of remission, suspension, or re-distribution of revenue; provided such cases are connected with the irrigation from the canals. To guide the Executive Engineer in forming an opinion in such cases, he will be furnished by the Deputy Commissioner with detailed statistical statements of the means of irrigation, amount of revenue, &c., furnished by every village on each canal, as shown by the settlement papers.

Changes affecting the revenue only to be effected in consultation with the Civil authorities.

5. No change in the old course of any canal, nor any permanent alteration in the canal irrigation, affecting in any way the payment of the revenue as fixed at the settlement, shall be made by the Executive Engineer without consulting the Civil authorities.

Sanction required before Government Funds can be expended.

6. No Government funds can be expended by the Executive Engineer without special sanction, to be obtained through the Director of Canals, to whom also must be submitted detailed estimates &c., as laid down in the Public Works Department, for all projects requiring special Government sanction.

The Executive Engineer responsible for efficient clearance of the Canals.

7. The Executive Engineer of Canals will be held personally responsible by Government that every Canal under him is efficiently cleared in time to admit of an early supply of water.

Trespass.

8. The Executive Engineers have also the power of dealing with cases of trespass and breach of Canal Regulations, under the provisions described in Act VII of 1845.* A list of trespasses is appended.

Bridges over Canals.

9. Any bridges that may be required over the canals will be built under the superintendence of the Canals Officers, the design having first been approved of by the Director of Canals.

Cost of bridges how to be charged when roads and canals cross.

10. As a general rule, when canals and roads cross, the newer of the two works should defray the cost of the bridge required at a crossing: when a new canal crosses an old road, the canal should bear the expense; when a new road crosses an old canal, the road should pay.

* This would seen to mean that the penalties prescribed by Sections 3 and 6 of the Act may be enforced by the Executive Engineer. The Act has not been declared applicable to these Canals, nor the rules published as required by Section 1.

Provides for the supply of labor under the circumstances of emergent necessity.

11. On occasions of emergent necessity, when serious accidents to the canal embankments or other works whereon the control of the water depends, are to be anticipated, or when such accidents have actually happened, and the supply of labor obtainable under ordinary circumstances, and by ordinary means, is inadequate to prevent or repair such accidents, then, in consideration of the great public and private interests at stake, it shall be competent to the Executive Engineer of Divisions to require extraordinary assistance from any village or villages in the neighbourhood, in proportion to their population.

Executive Engineer responsible that Rule 11 is restricted to formidable emergencies.

12. The Executive Engineer however will be held personally responsible that the application of the above rule is restricted to those formidable emergencies against which only it is meant to provide; and on no account allow it to be used directly or indirectly as a means of procuring labor under any other circumstances whatever.

Number of laborers to be fixed in consultation with Civil Authorities.

13. The number of laborers that each village can provide to meet an emergency as above, will be determined by the Executive Engineer in consultation with the Civil authorities.

Pay of the laborers.

14. That the pay of the laborers so received shall be three annas per man per diem, and the average quantity of work expected from each man will be 80 cubic feet of excavation in easy soil down to a depth of (7) feet, and 40 cubic feet the average from 7 down to 14 feet in depth.

Laborers from a distance to receive wages for the time occupied in coming from and returning.

15. That these laborers when brought from a distance shall be allowed regular wages as above for the number of days consumed in the journey to and from the work, as laid down in para. 17, Section 1 and Chapter VIII, of the new Code, Department Public Works.

List of trespasses of Canal Regulations.

1. Crossing cattle through the canal, or watering them at other than the regular watering places.

2. Constructing a dam or bund of any kind, or bridge, or spur, in the canal or rajbaha channel, without the permission of the Canal Officer.

3. Wilfully causing the destruction of any dam, or bund, or spur, constructed by the order of the Canal Officer, either in the canal itself or in any rajbaha or water-course.

4. Opening a fresh cut from the canal, or from a rajbaha, without permission of the Canal Officer.

5. Digging earth from embankment for brick-making, or for any other purpose, or in any way injuring or breaking down the embankments.

6. Wilfully injuring bridges, water-course heads, or other works.

7. Wilfully injuring water-gauges, bench-marks, and removing other marks laid down by the Canal Officer.

8. Throwing rubbish or filth of any kind into the canal, or in any way defiling the water.

9. Cutting trees from the canal banks without permission of the Canal Officer.

II.—FORESTS.

The earliest instructions on this subject in which any rules were laid down, appear to be those contained in Government of India letter No. 218, dated 13th February 1852, to the Board of Administration, which was circulated by the Board with their Revenue Circular No. 15 of 1852.

Subsequently rules for the conservancy of forests and jungles in the Hill districts were proposed by the Chief Commissioner for the sanction of the Governor General, and were approved by the President in Council, after consulting the Governor General, in Government of India letter No. 1789 dated 21st May 1855. In para. 7 of this letter it was ordered that Commissioners should be instructed to prepare and promulgate more detailed rules adapted to the circumstances of each division, reporting to the Chief Commissioner, for the final sanction of the Government of India, the several steps taken by them. Under this authority rules were framed for Hazarah by the Commissioner of Peshawar, and these received the sanction of the Chief Commissioner in January 1857, but do not appear to have been submitted to the Government of India.* A few rules for the Rawalpindi district were issued by the local authorities in December 1856, founded upon the general rules sanctioned by Government of India, but there is nothing to show that these were sanctioned either by the Chief Commissioner or by Government. In the case of Kangra also, the rules prepared by the Commissioner were not submitted to the Government of India, but rules which had at an earlier date been prepared by Mr. Bayley, the Deputy Commissioner, were laid before the Punjab Government by Commissioner's No. 11, dated 15th July 1859, in which they were recommended for sanction, and these rules were agreed to by the Lieutenant Governor, as modified by the

* Instructions on the subject of Forest Conservancy in Hazarah have recently been issued by the Lieutenant Governor under Section 5 of "the Agror Valley Act, 1870,"—Act III of 1870.

proposals in the Commissioner's letter, which were also sanctioned—*No. 226, dated 25th July 1859, from Secretary to Government Punjab, to Commissioner Trans-Sutlaj States.*

In the same letter the Commissioner was authorized to extend the rules to the forests in the district of Hoshiarpur.

In a letter No. 996—146, dated 16th April 1859, the Commissioner accordingly requested the Deputy Commissioner of Hoshiarpur to give the subject his "early attention, with the view of extending the arrangements proposed by" the Commissioner, "and sanctioned by His Honor the Lieutenant Governor, to the district of Hoshiarpur." In January 1860, the Deputy Commissioner reported upon the forests of his district, and on the 1st March 1860, the Officiating Commissioner, Mr. P. S. Melvill, replied in a letter No. 466—90, to the Deputy Commissioner, enclosing a copy of the rules for conservancy in the Kangra district, as revised by him in accordance with the propositions made by Major Lake in 1859, and sanctioned by Punjab Government letter No. 226, dated 25th January 1859, and directing that these rules should be applied to the forests of Panjal and Lohara in the Upper or Solasinghi range of hills. The rules were not to apply to the bamboo forests of Karanpur and Bindraban in the Sewalik range, which were exclusively the property of Government, and in which the zamindars had no rights or pasturage. The management of these had been provided for by separate rules mentioned in the Commissioner's letter No. 996—146 of 1859, as having been recently drawn out by Mr. Simson. It does not appear, however, that Mr. Simson's rules had received the sanction of Government.

One slight alteration was made in the Kangrar ules, before they were introduced into Hoshiarpur, by Punjab Government No. 71 dated 7th January 1860, to the Commissioner, and a few changes appear to have been made after the 1st of August 1861, which would be in force only so far as the matters to which they relate are within the competence of the Executive Government.

No rules have been made with reference to fuel preserves in the plain districts of the province which could be held to have received the force of law, except those with reference to Rakhs in the Multan Division, which are appended to Colonel Hamilton's Grazing Tax Rules, *(ante p. 323)*. The sanction of the Lieutenant Governor, conveyed in Punjab Government letter No. 575, dated 26th April 1860, to the Financial Commissioner *(ante p. 326)*,

appears to extend to those rules, as well as to the rules relating to the grazing tax.

There is much in all these rules which cannot be considered to amount to law, relating to matters quite within the competency of the Executive Government, and in regard to which it might modify its instructions from time to time without the intervention of the legislature. But as it would be difficult, and in some cases impossible, entirely to separate the rules which have the force of law from the rest, and as it is not desirable to publish rules which are not accessible in print elsewhere in an incomplete state, they are here given at full length.

None of these rules have hitherto been superseded by rules framed under Act VII of 1865, and it is understood that the introduction of new Forest Rules is delayed in expectation of the passing of a Forest Bill now before the Legislature.

FORESTS AND FUEL PRESERVES.

Extract paras. 3 to 10, 13, to 17, and 20 of letter No. 60, dated 17th January 1852, from the Secretary to the Board of Administration, to the Secretary to Government of India.

3rd.—The Board are fully alive to the importance of the ends in view, and they are glad to have the opportunity afforded them by the Governor General of bringing before the Government the question, not only of increasing the growth of timber, but of economizing the existing produce for the future wants of our large cantonments, for the steamers which may hereafter ply, and for the inhabitants of the country generally.

4th.—Although timber of large growth is very scarce, yet large tracts of country throughout the Punjab are covered with low thick jungle, more or less dense, which yields good wood for fuel. This is the case in the centre of the Doabs commonly called the Bar, and the same kinds of jungle trees are to be found in different other localities, where the ground has fallen out of cultivation, or is altogether unsuited for it owing to its broken and raviny nature. The Board have ascertained that near our large cantonments the supply of wood has, in several instances, been nearly exhausted by the demand made for fuel for burning bricks and lime, and for the troops and camp-followers, and unless immediate measures are taken, they fear that the future supply, within any reasonable distance, will be impossible. They have ascertained that the jungle wood generally is re-producing, and that the wood cut down will be fit in two years to be cut again.

5th—The large cities and towns in the Punjab have hitherto been supplied with wood cut from the Bars or jungles convenient to their respective localities. The population of the country is rapidly on the increase, and cultivation spreading; moreover, the demand for fuel for the large Cantonments, and public works now under construction throughout the Punjab, as also for the large masses of troops cantoned in the country, is enormous, and the persons who supply wood find

it more convenient, as well as more profitable, to stub out the roots of the trees near at hand than to go to a greater distance for the standing trees, hence reproduction is prevented, and the supply altogether fails, if the jungle is limited, or it is daily removed to a greater distance.

6th.—The Board would therefore propose, with the sanction of Government, to select certain tracts of country, if possible unculturable, covered with low reproducing jungle, as near as may be convenient to the large cities, Cantonments and rivers, (they mention rivers in view to the future supply of steamers), and to place these jungles under proper surveillance, so as to prevent trees being grubbed up by the roots. The wood should be cut about one feet from the ground, and no lower. A small tax, sufficient only to pay the cost of a few watchmen to protect, and, if necessary, renew the trees, might be levied for cutting the wood: by this plan the Board would hope to economize it, and prevent its being totally destroyed, the local agents in each district being charged with the care of it.

7th.—The above general remarks refer to wood in the plains: but the Board understand that the ranges of hills from Hazarah which run down to Rawalpindi and end at the Jhelum, as also the base of the Rawalpindi hills, yield an immense supply of timber trees. The ordinary tree of the mountain, Mr. Thornton informs the Board in a very full report which he has submitted, is the common pine, and also the Ilex. The Chestnut, the Walnut, and other deciduous trees are grown less abundantly; at the foot of the mountains there is a dense growth of trees of many kinds, the majority of which do not attain greater height than just suffices for their being used as rafters or poles: but there are several which are calculated to become fine timber, such as the Sisu, the Tún, and a tree called the Kangar; the Bamboo also grows in some places, and from these not only Rawalpindi, but Peshawar and Jehlam are supplied.

8th.—Mr. Thornton states that all these useful products are being mis-used and destroyed most recklessly. "People," he says, "help themselves at will, attentive solely to their own immediate wants, and regardless of the exceedingly disproportionate injury which is being committed. The stronger and better bamboo is trampled down and spoiled in getting to the lighter one, which is less weighty to carry, and is as useful in making up the tale of the contract. The cutting goes on even when the new shoots are budding, and these are trodden off, and thus is diminished the supply of the coming year; the wood that, if spared for a couple of years, would become a strong serviceable rafter, is cut down for fuel, though there is abundance of other wood which is merely fit for burning; and the Tún, Sisu and Kangar, all of them good timber trees, are being felled when too young to be used except as poles. The pine is even more wasted;—saplings are cut down and sold in great numbers as poles, and the young seedings are destroyed by the practice of firing the grass, so that those cut down are not re-placed by new ones. It would appear that the ground covered by these forests is not unclaimed."

9th.—The Board propose, after defining the village boundaries, and allowing such reasonable extent of land as may suffice for the wants of the communities being included in each area, to declare the

lands beyond these boundaries the property of Government. In thinly peopled tracts it will probably suffice, to prevent waste, that the heads of villages bind themselves to prevent injury to the trees, and, in return for this care, the people might be allowed to collect for their own consumption fire-wood to any extent, provided they confine themselves to dead timber. The District Officers should be empowered to grant a written permission to cut down a given number of trees of a specified size and age, when required by the villagers for agricultural or architectural purposes.

10*th*.—Near towns and cantonments, where the country is more densely peopled, it will probably be necessary to entertain forest rangers, paid from the income derived from these woods, for whose guidance a code of rules can be drawn up.

13*th*.—Major Abbott, the Superintendent of Hazarah, informs the Board that from Torbela on the Indus to Attak, there are not less than 300 islands, many of great extent, and that, from our earliest record of the Indus to within twelve years of the present date, they were richly belted with forests producing the finest Sisu timber, and supplying the chief part of that employed for the Sikh gun carriages. The great flood of the Indus, in 1839, swept away the whole of these, as well as the forests which had fringed either shore, bearing away whatever clay soil had covered the surface: so utter is the wreck that not a tree was left, but since then young timber trees have sprung up and the whole surface has again been covered with them.

14*th*.—The Board will direct the attention of the Deputy Commissioners of Hazarah, Chach and Peshawar, whose districts border on the Indus, to look after and superintend the wood on these islands, and to see that it is not recklessly destroyed.

15*th*.—In order, then, to carry out the views of Government as to the increasing the growth of timber in the plains, the Board, after consulting the officers under them, consider that the simplest and most effectual plan will be as follows:—

Firstly.—That a proclamation be issued informing the people of the desire of Government to encourage plantations, and that the Government will uphold the rights of the owners of trees to all * the profits.

* This is the more necessary as the Officers of the Sikh Government used to claim a share of the produce.

Secondly.—That at each revision of the settlement, the land under copse or planted with young trees, shall not be subjected to assessment for the term of that settlement, if at the time of settlement it was not yielding a return, and when, at future settlement, it shall be found to be productive, it shall still only be assessed according to the intrinsic qualities of the soil.

Thirdly.—That all new cuts from canals be only made on the zamindars agreeing to plant both sides of the water-courses with trees at intervals of 14 feet.

Fourthly.—That at every three miles along the main lines of communication, spots of uncultivated ground, of sufficient extent to employ one pair of bullocks in watering trees, be given rent-free, so long as they are planted, to those who will undertake to sink a well and plant a grove.

Fifthly.—That around Government buildings of every description trees be planted.

16*th.*—The Board consider that it will be necessary to create a supply of trees for the great demand that is likely to spring up. They propose that along the canals the officer in charge shall be instructed to raise young plantations at every three miles, and that at every Jail and at every Tahsildari through the country, nurseries of trees shall be planted for the purposes of distribution; also that the officers engaged in forming the new settlement, shall require the zamindars receiving "inams" from Government to raise one* kanal of young trees annually for sale or distribution amongst their tenants.

* ¼th of a Bigah.

17*th.*—All Government Officers shall be called on to encourage planting, and bring to the notice of Government those who have distinguished themselves in this way.

20*th.*—A question has arisen whether the new lines of road now under construction, as for instance, the Peshawar line, should be planted the entire way, or whether clumps of trees at every half mile would not be more advisable and better adapted for the wants of the people, as affording greater relief to travellers during the great heat. It is argued that rows of trees off the road afford little or no shade, and that the care of them is very expensive. On the other hand, that groves of trees at certain intervals afford good shade, are more picturesque, and are a great comfort to travellers; also that they are not nearly so expensive, and that the trees, when young, can be better looked after. The Board are inclined to think the latter plan the best, and they would be glad to learn the wishes of the Governor General on the subject.

No. 218, dated 13th February 1852, from the Officiating Under-Secretary to the Government of India, to the Board of Administration for the Affairs of the Punjab.

I am directed to acknowledge the receipt of your Secretary's despatch, dated the 17th ultimo, No. 60, and in reply to state, that the Governor General in Council thinks that the several proposals which you have submitted regarding a supply of timber trees, and of wood for fuel, may, with great advantage, be approved.

2*nd.*—Certain allotted spaces, calculated according to the ascertained rate at which the wood is re-produced, should be set apart near to the great towns and cantonments for the regular supply of fuel, in the same manner as grass preserves have already been told off for regular use. The area of the fuel copses should be made ample to secure a constant supply, and the regulations for cutting should, from the first, be rigidly enforced.

3*rd.*—Immediate measures should be taken for ensuring a supervision and guardianship of the hill timber in the Jehlam Division. The want of these precautions elsewhere has produced, and is now daily producing, a probable scarcity at no distant date, which the Governor General regards with some anxiety.

4*th.*—The cost of the small establishment which will be necessary for the protection of the fuel copses and hill woods, may be defrayed by the exaction of a small payment from the cutters.

5th.—The several suggestions contained in the 15th para. of your letter, are approved by the Governor General in Council.

6th.—With regard to the question mooted in para. 20, as to whether trees should be planted along the main roads in the form of avenues, or as topes at every mile or so, the latter appears to His Lordship in Council to be preferable, for the reasons given by you. The avenues are the more ornamental; but they do not afford the same effectual shade to travellers, and are not so easily reared. In topes the young plants shelter each other, and may be more readily looked after.

NOTE.—These instructions were circulated with Revenue Circular of the Board of Administration, No. 15 of 1852, *(p. 164 of the Board's Revenue Circulars.)*

FOREST CONSERVANCY.

Extract paras. 1 and 7 of No. 1789, dated 21st May 1855, from Secretary to the Government of India, to the Chief Commissioner of the Punjab.

I have the honor to acknowledge the receipt of your Secretary's despatch dated the 3rd March last, No. 196, submitting your final proposals for the conservancy of forests in the Punjab. These proposals having been referred to the Governor General, and his Lordship's views on the subject having been communicated to the President in Council, I am now directed to convey to you the following observations and orders.

7. His Honor in Council does not propose to disallow or even to alter the general rules which you have submitted for the sanction of Government. His Honor in Council makes no objection to them as far as they go. But it is very necessary, in his opinion, that the issue of those rules to the Commissioners should be accompanied by an explanation of the reasons which have led to their being couched in terms so general, and also by directions to each Commissioner to prepare forthwith a set of rules adapted to the peculiar circumstances of his Division, to promulgate them in their several districts, to entertain the establishments requisite for enforcing them, and to report without delay to you, for the final sanction of the Government of India, the several steps which he has taken.

Rules for the Conservancy of Forests and Jungles in the Hill Districts of the Punjab Territories.

1. In any Hill District within British jurisdiction, the Civil authorities have power to mark off any tract, plot, or ground, wheresoever situated, which they may consider to be specially adapted for the growth of timber or fuel.

2. The tract, plot, or ground so marked off, may be declared to be a public preserve, denoted by boundary marks, fenced and protected from trespass of all kinds. Within it the said authorities are empowered to prohibit, restrict, or regulate all felling and cutting, and to arrange for the development, preservation, and growth of the trees, shrubs, or brush-wood, in such manner as may seem to them expedient.

3. The said authorities within the said limits are also competent to grant to any party privileges of cutting or felling, and to demand and receive fees from such party, and to determine the amount or rate of the fees.

4. Within the said Hill districts, the Civil authorities may proclaim publicly prohibition, restriction, or regulation in regard to the felling or cutting, or other injurious act for any purpose whatsoever, of any species of tree, shrub, or brush-wood, wheresoever it may be found growing, of whatever size or growth, whether grouped together or scattered about, which they may consider specially suited for the production of timber or fuel.

5. The said authorities, in regard to the said species of tree, shrub, or brush-wood, may grant privileges of felling or cutting to such parties as they may think proper, with or without the payment of fees, to be fixed as declared in rule 3.

6. No person shall be entitled to object to the foregoing rules, whether relating to enclosures or to particular species of tree, shrub, or brush-wood on the score of proprietary or manorial right, provided always that the Civil authorities do not interfere with the wood or fuel that may be really required by the occupants or owners of the land for agricultural or domestic purposes.

7. With the proviso above described, the Civil authorities within the said Hill districts may prohibit, restrict, or regulate any operation which they may consider calculated to destroy or injure existing supplies of timber or fuel.

8. The setting fire to forest, grass, brush-wood, or other combustible substances in a manner calculated to destroy or injure existing supplies of timber or fuel, may be absolutely forbidden.

9. The villagers, the owners, and occupants of the land, may be rendered responsible for conflagration occurring within their bounds, whether accidental or not, or by whomsoever caused, and such owner, occupant, or villager, may in this case be treated as if he had been guilty of an infraction of the rules.

10. The grazing of cattle or domestic animals of all kinds in such places, or with such license as may be, in the opinion of the Civil authorities, injurious to existing supplies of timber or fuel, may be prohibited, restricted, or regulated in such manner as may be deemed expedient, provided always that the proper grounds for the grazing or pasturing of such cattle be not interfered with.

11. The owner or possessor of cattle which may be found grazing or pasturing in contravention of the foregoing rule, or in public preserves, or in other forbidden ground, may be treated as if he had been guilty of an infraction of the rules.

12. Any person who may infringe any of the above rules for the conservancy of forest and jungle may be fined at the discretion of the Civil authority to an amount not exceeding Rs. 100 for each offence; such fine may be realized by sale of personal property; and in the event of non-realization, the offender may be imprisoned for a term not exceeding three months.

13. The Civil authorities may appoint forestors, rangers, or other officers for the purpose of enforcing these rules. Such officials shall be held to be vested with due authority to this end. They may range over and examine all forests and jungles within their jurisdiction respectively; lay information of violation of the rules; bring persons before the Civil authority who may be found infringing the said rules; and execute summonses; they will also be liable to the usual pains and penalties for the abuse of their authority.

Extract paras. 2, 7, 9, 12 to 18, 21 to 23, 24, (part) 25, 30 and 32, of a letter No. 11 dated 14th January 1859, from Commissioner and Superintendent Trans-Satlaj States, to Secretary to Government Punjab.

2. The principle has been enunciated, and more than once reiterated, that the expense of conservancy is to be restricted by the income of forests, and, in the application of this principle, I believe that true economy has been sacrificed by a desire to show a surplus. True economy consists in preventing waste, and a few hundred rupees additional lodged in the Government treasury year by year are dearly bought, if insufficient establishments and an inefficient system of supervision lead to the wasteful expenditure of present resources, and cripple the measures which would otherwise be taken for providing for the future. I would therefore propose as the first and most important step in forest conservancy that, of the income derived from forests, the proportion be fixed which is to be carried to credit by Government as net revenue, and that the remainder be considered a deposit available for improving and maintaining conservancy, and in rearing new forests. I consider that the Government share should be one-third of the total income derived from forests.

7th.—Under the present system, if a trader gets an order to cut twenty trees, he has only to buy over the head-man of the village, and he can cut any number he pleases. Give the forest keeper, the patwari, and all the members of the brotherhood, a share in the proceeds, as well as the head-man of the village, and each one will act as a check upon the other. I therefore recommend that of all income derived, either directly or indirectly, in connection with forests, that one-fourth be distributed as follows:—

One share to the forest keeper; one share to the village community; half a share to the patwari; one share and a half to the head man.

9. With the view of raising the profits of village communities, I would recommend that all wood-cutters and charcoal-burners be called upon to take out licenses for plying their trade in any Government forest, and that for this license the former pay four annas, and the latter one rupee *per annum*, in consideration of which they be allowed to remove daily one load of wood or one load of charcoal. Fuel required for the use of the village community in whose boundary a forest is situated, should not be subjected to any restriction;—in paying Government revenue they have compounded, so to speak, for this extra cess; but there is no reason why in course of time the non-agricultural resident should not pay a small fee for the privilege of supplying himself with fuel from a Government forest; but, on the first introduction of the experiment I would exempt him, requiring only those to take out license who take fuel for

sale to neighbouring towns and other markets. The license should be granted by a Government official, but the income might at present be made over to village officials.

12. I may now proceed to report upon the state of forest conservancy in the District of Kangra, where, in furtherance of this object, I advocated in my letter No. 1729-110, dated 18th August 1856, the following measures :—

1*stly*.—To effect the correct classification of forests, and to ascertain as far as possible the extent of our present resources ;

2*ndly*.—To enlist the people in the great work of forest conservancy by giving them a share in the proceeds ;

3*rdly*.—To employ the regular police in controlling village officials, giving them extra batta while so employed ;

4*thly*.—To fix the strength and cost of establishments with reference to the average income derived from forests, and to systematize operations for husbanding and rendering the resources we already possess more productive.

13. The first of my propositions was negatived, the second modified, the third approved, while the fourth did not meet with much support. The modified orders of the Honorable the Lieutenant Governor have been carried into effect, and although, for reasons fully given above, I do not consider that the people are sufficiently liberally dealt with, I must confess that the result has been a very decided improvement in forest conservancy. This is borne out by the testimony of all parties.

14. On the other hand complaints are very general against the stringency of the new rules, and a protest made against them by the people to Mr. McLeod, led to his addressing me upon the subject. I am not surprised at this, because control of any kind would be irksome to people who had been thoroughly reckless. I am prepared so far to consult their convenience, that I would empower the headmen of villages to grant permission to cut the less valuable trees for fuel and for agricultural purposes, merely recording the particulars in the patwari's diary. The people naturally consider it a great grievance to be obliged to get permission from the Tahsíl to cut wood for ordinary agricultural purposes. In this respect their wishes may be fairly met, but, as regards the more valuable timbers, I would advocate greater stringency than heretofore.

15. With this object it is most important that the bounds of all Government forests should be strictly defined, and marked in a visible, substantial manner. These bounds should be fixed only after personal inspection by a trustworthy officer, who should be directed to make every due allowance for the wants of villages communities, by leaving them ample ground for grazing their cattle, and for procuring supplies of fuel. In order to meet the convenience of the people, it will probably be found advisable to divide each large Government forest into three distinct patches, and to bring each alternately under the most stringent surveillance. It is obvious that different degrees of surveillance are required, according as trees are old and young ;—to the latter the grazing of cattle is fatal, to the former it does no harm. Twice a year, on the first of September

and on the first of March, the patwari should report regarding each forest preserve, whether during the previous six months it has escaped conflagration, as well as injury from the grazing of cattle, and what is the general state of the forest, and particularly of the young trees in it.

16. Systematic rules should be laid down under which every forest preserve in the District should be visited at least once in every three years by some trustworthy officer, who should not be of the lower grade than a Thanahdar. He should on this occasion mark trees fit for cutting sufficient for the average demand of the three following years. A standing order should be laid down, to be relaxed on no pretence, that no tree is cut down which has not been previously marked and selected by a Government official. He should, as far as possible, select them from localities which can be brought under efficient control. It would be desirable to mark off the bounds within which cutting operations were to be carried on, and any one found cutting outside these bounds should be severely punished. The visiting officer should send in a detailed report, showing the state of the forest and how far village officials have done their duty: where more than ordinary zeal has been shown in rearing young trees, forest keepers should receive a reward; where neglect is apparent, village officials should be fined.

17. To the scheme proposed by me for remunerating village officials, a very legitimate objection is urged that, although closed forests demand more care than those open for cutting, no remuneration will be derived from the former. To obviate this objection, I propose that the forest keepers receive during the period a forest is closed an average of the sum they would have received during the previous years when the forest was open and timber regularly sold, supposing the one anna fee now proposed by me had been in operation.

18. To encourage them also to rear new and valuable descriptions of timber, I would offer premiums, graduated according to the scale marginally exhibited, for rearing "kelus" or "deodars" in localities where at present they are unknown, and for this purpose I would annually distribute among the forest keepers in the most eligible localities the seeds of the kelu and other valuable trees: as with the cultivation of tea, the great point is to make a successful commencement. If 100 kelus are once reared in a forest, their extension may be safely left to nature, and the ordinary care of the people.

	Rs.
For the first twenty deodars raised above 5 feet, ...	5
For the first fifty deodars raised above 5 feet, ...	10
For the first hundred deodars raised above 5 feet, ...	20

21. But as to define substantially the bounds of forests,—to mark trees fit for cutting,—to remunerate keepers for their care of forests,—to stimulate them to rear new trees,—to thin out forests and prune trees,—all this requires money, the financial bearing of this question next calls for remark.

22. I calculate that the average income to be derived from the sale of timber in the forests of Kangra may be put down roughly at 3,000 Rupees per annum.

23. According to the scheme detailed above, one-third of this sum would be carried to credit as net revenue; one-fourth would be expended to village officials. To control them again, I propose to employ two chaprassis in each parganah, and one chaprassi specially for the forest of Dharmsalah. The account therefore would stand thus—

Net revenue to be credited to Government, ...	Rs.	1,000	0	0
Fees to lambardars, ...	„	281	4	0
Fees to patwaris, ...	„	93	12	0
Fees to village communities to be divided according to khewat, ...	„	187	8	0
Fees to the forest-keepers, ...	„	187	8	0
Total, village officials, ...	„	750	0	0
Batta for the ten chaprassis @ 2 Rs. each ...	„	240	0	0
One chaprassi for Dharmsalah forest, ...	„	24	0	0
Total fixed charges, ...	„	1,014	0	0

Leaving an available balance of Rs. 986 for the various purposes set forth in para 21.

24. With the view of bringing the income and expenditure more directly under control, I would recommend that the contingent expenditure be placed upon the same footing as the Ferry and other Local Funds, the Commissioner being empowered to pass and countersign the monthly bills, with the understanding that the aggregate expenditure per annum does not exceed one thousand rupees . . . . . .

25. A considerable number of persons have hitherto been allowed to cut timber gratis, among whom may be specified European residents at Dharmsalah, the native officials in our Courts, and the Department of Public Works: I am of opinion that this practice should not continue. On the other hand, to admit of the reasonable extension of the sanatarium at Dharmsalah, parties building there, whether private individuals or belonging to the Public Works Department, should only pay the lower rate of four annas a tree charged to the zemindars and residents of the district,—native officials might in my opinion be allowed to cut timber on the same terms. The distinct orders of the Hon'ble the Lieutenant Governor are required on this point, as much waste has been caused by the indiscriminate cutting of favored individuals.

30. For the forests in the Hushiarpur district I would recommend that the system pursued in Kangra be adopted, and, as a preliminary to a detailed proposition for supervising establishments, I would call upon the district authorities to submit a statement showing approximately the resources of each forest, as has been done for Kangra.

32. Owing to the file of forests being a very voluminous one, it escaped my notice when I last reported on this subject, that no mention had been made of certain rules introduced by Mr. Bayley for the preservation of timber in the Government Forests of the Kangra District. They have been in force ever since, and as Mr. Edgeworth's rules do not differ from them in any material points, it appears desirable to continue, with slight modifications, those rules of Mr. Bayley,

with such additions as may appear desirable, with reference to the scheme now proposed, and the rules drawn up by Mr. Edgeworth. Mr. Bayley's rules are herewith appended, and after being favored with the Hon'ble the Lieutenant Governor's views on the various points mooted in this report, a set of rules can be drafted and submitted for his sanction. I request that Mr. Bayley's rules, and one of the two sketch maps of forests in the Kangra District, forwarded therewith, may be returned to me.

Extract paras. 3 to 7 of letter from Secretary to Government Punjab, to the Commissioner and Superintendent Trans-Satlaj States, No. 226 dated 25th January 1859.

3. As an experiment, however, His Honor consents to your proposal that two-thirds of the income be devoted to the immediate object of forest conservancy; and on the same terms authorizes the issue of licenses to wood-cutters and charcoal-burners, at the rates proposed by you in your 7th para. But members of the village communities are still to be allowed to cut wood free from charge for domestic purposes. The Lieutenant Governor further sanctions the rules proposed in your 14, 15, 16, 17, and 18 paras. as well as the distribution of the fixed charges as detailed in your 23rd para.

4. You are also empowered to pass bills to the amount of Rs. 1,000 on the principle prescribed for the Ferry Fund; and to require such simple tabular returns as you may deem necessary.

5. The Lieutenant Governor sanctions your levying (as proposed in your 25th para.,) a uniform tax of four annas for every tree cut down, whether by Europeans or Natives, resident at Dharmsalah, or by Government Officials, including those of the Department of Public Works. He even considers this rate to be too low.

6. You are authorized to depute Munshi Jaishi Ram to visit the forests and afterwards to fix the prices of timber.

7. The rules as now modified are agreed to by the Lieutenant Governor, and you are at liberty to have them formally drawn up. They may then be extended to the forests in the District of Hushiarpur.

Copy of a letter No. 216, dated 31st December 1859, from the Commissioner and and Superintendent Trans-Satlaj States, to the Secretary to Government Punjab.

In para. 9 of any letter No 11, dated Nongajja, 14th January 1859, reporting upon forest conservancy in the Kangra District, I suggested that all wood cutters be required to take out licenses for plying their trade in any Government forest. Some delay took place in introducing this arrangement after it was sanctioned by Sir John Lawrence, so that when the orders for introducing a general system for licenses on trades were received, the wood licenses had only been taken out in a few places, and there the system of wood licenses was found very distasteful to the people. I therefore thought it prudent to put them in abeyance while the more important system of trade licenses was being enforced. Charcoal-burners, however, should be required to take out licenses, and the fee might be increased at the discretion of the local authorities. Before my departure I deem it right to obtain the sanction of His Honor the Lieutenant Governor to thus

partially setting aside and modifying arrangements authorized by the Local Government.

Copy of letter No. 71, dated 7th January 1860, from the Secretary to Government Punjab, to the Commissioner and Superintendent Trans-Satlaj States.

In reply to his No. 216, dated 31st December 1859, informs him that the Honorable the Lieutenant Governor sanctions his proposal, as the Commissioner thinks it proper.

Extract para. 3 (part,) and paras 4 to 6, of letter No. 466—90, dated 1st March 1860, from the Commissioner of Jalandhar, to the Deputy Commissioner Hoshiarpur.

In para. 3 the Commissioner observes that on the Upper or Solasinghi range of hills—" there are the Panjal and Lohara forests, and an expanse of hill abutting on the latter forest covered with fine timber. The whole of this forest land was conserved during the Sikh time, and should be conserved now."

4. The rules for conservancy in the Kangra District, as just revised by me, are herewith enclosed, and I request that you will apply them to the abovenamed forests. The right of Government merely extends to the timber. The right of grazing, and to the spontaneous products of the forest appertain to the zamindars, subject to the restrictions prescribed in the rules. No other waste land is to be interfered with, and it will remain with the Deputy Commissioner to give permission to cultivate any portion of the conserved forest which may become denuded, but such a contingency can hardly arise, as it is the express object of the present rules to prevent the clearance of the forest.

5. The general principles on which these rules have been based, are shown in Major Lake's letter to Government No. 11, dated 14th January 1859. . . . . The rules were originally framed by Mr. Bayley, Deputy Commissioner of Kangra, and alterations were made by Major Lake, but not incorporated in the rules. I have now collated the original rules and emendations, and have added a few clauses embodying the propositions made by Major Lake in his letter No. 11 quoted above, and sanctioned by the Punjab Government letter No. 226 dated 25th January 1859.

6. The forests of the Sewalik range are those of Karanpur and Bindraban, which only produce bamboos, and are exclusively the property of Government. The rules do not apply to those forests. The zamindars have no rights of pasturage, and they certainly cannot have any claim to a share of the sale proceeds.

Revised rules for the preservation of timber in the Government Forests of the Kangra District.

1. No tree of any kind available for building or other purposes of timber to be felled of a less diameter than one foot, except with special permission.

2. No tree of the above description, whatever may be its size, is to be felled for purposes of fuel, except with special permission.

3. No tree, of any size or description whatever, is to be felled within 100 yards on either side of any public road or way, except with special permission.

4. No tree of any kind whatever to be felled without permission.

5. This permission will be granted on application through the Tahsildar, who will forward it for sanction to the district authority; but for the inferior kinds of trees require *bonâ fide* for agricultural purposes, the permission of the headman will suffice.

6. The Tahsildar will state, in forwarding the application, whether the applicant is entitled or not to cut timber; and if he be entitled, whether the application made is duly proportioned to his wants. All applications should be in a printed form.

7. Proprietors of land, or hereditary cultivators, are entitled to cut and appropriate whatever timber they may require for building or agricultural purposes, on paying a fee of four annas; and trees unfit for timber, as fuel, or their leaves as fodder, gratis.

8. The Deputy Commissioner may, if he sees reason, grant timber (on a limited scale) to others for special purposes, not being for sale, either gratis or on favorable terms; and to soldiers in the ranks of our army on the same terms as proprietors of land.

9. Every application shall specifically state the name, caste, father's name, and residence of the applicants; and the number and kind of trees, the object for which, and the forest from which they are required: a printed form of application to be used.

10. Persons buying timber are required to deposit, on the grant of their application, the full value of the timber to be cut, or to give satisfactory security for the same, without reference to the quantity the cutter may be able to remove.

11. When an application is sanctioned, the Tahsildar shall issue an order (specifically worded as the original application) to the lambardar of the village within which the forest is situated.

12. This order shall continue in force for four months only from its date. If the wood be not cut and removed within that period, the order shall be of no further validity, and any wood cut and the price of any portion not cut, shall be forfeited to Government.

13. The lambardar to whom the order is addressed, and all village officials in general, shall be responsible that its conditions be duly fulfilled. On receipt of the order the lambardar shall point out to the grantee the limit within which he is entitled to cut.

14. Any person having a grant, who shall cut trees except within the boundaries of the forests specified in the grant, or who shall cut trees not specified in his grant, or in excess of the number, or for a purpose other than that specified in his grant, shall be liable to a fine not exceeding 100 rupees; and trees illegally cut, shall be forfeited to Government. Half the amount of the fine levied shall invariably be given to informers.

15. Any person cutting a tree within 100 yards of any public road or way, or cutting a tree fit for timber of less diameter than one foot, or any such tree of any size whatever for fuel, shall be liable to a fine of 10 rupees for each tree so illegally cut, half the fine being

payable to informer: provided that the total amount of the fine shall not exceed 100 rupees.

16. Any person cutting any tree whatever, without permission, to be liable to a penalty of 30 rupees for each tree so cut, half the fine being payable to informer: provided that the total amount of fine shall not exceed 100 rupees.

17. Any lambardar to whom a grant to cut wood may be directed, failing to point out the forest specified, and its boundaries, to grantee, or neglecting to report any breach of the conditions of such grant, to be liable to a fine of 25 rupees.

18. Any lambardar wilfully conniving at any breach of these regulations, or himself violating them, to be liable to a fine not exceeding 100 rupees, or, in aggravated cases, to dismissal from his office.

19. Persons having an ancient right to graze, gather dry wood, or to collect leaves for manure, in any Government forest, are, with the undermentioned restrictions, still entitled to these rights.

20. In order to promote the growth of seedlings, both for timber and fuel, the third part of every Government forest shall be preserved for three consecutive years, or for such periods as the local authorities may determine.

No one shall set fire to grass within the Government forests, and grazing in the preserved portion shall be prohibited altogether, for such period as the local authorities may determine; no trees shall be cut in the preserve for fuel, nor any leaves collected for fodder, at any time of the year.

21. Any person violating these restrictions to be liable to a fine not exceeding 50 rupees.

22. Any person not being permitted to cut wood, who shall on any pretext take a cutting instrument into a Government forest, or any person whatever who shall take a cutting instrument into any portion of a forest preserved under Rule 20, shall forfeit the instrument.

23. Any person refusing to give up such instrument, to be liable to a fine not exceeding 20 rupees.

24. Any person wilfully injuring or destroying trees planted on the roads, or for any public purpose, shall be liable to a fine of 20 rupees for each tree: provided that the total amount of fine shall not exceed 100 rupees.

25. The boundaries of each Government forest shall be marked out, either with a ditch or boundary pillars. A sufficiency of land for the requirements of the zamíndars for fuel and grazing shall be excluded, and the remainder divided into three lots, two only of which shall be open for grazing and cutting during the year. Twice a year, on the 1st of September and on the 1st of March, the patwari should report regarding each forest preserve, whether during the previous six months it has escaped conflagration as well as injury from the grazing of cattle, and what is the general state of the forest, and particularly of the young trees in it.

26. Each forest shall be visited by a Government official, of not less rank than a Thanahdar, once every three years, and he shall then

blaze all trees fit for cutting, sufficient for the average demand of the three following years. No tree shall be cut that has not been blazed, under any pretence.

The receipt from the sale of timber shall be thus divided :—

Net Revenue to Government per rupee,		annas	5¼
Forest Conservancy Fund,		„	6¾
Perquisites of villages, *viz* :—			
Forester,	1 anna,	„	4
Village community,	1 „		
Patwarí,	½ „		
Lambardar,	1½ „		

The keepers of closed forests shall receive during the time the forest is closed, the average amount they would probably have received had the forest remained open.

28. The forests of each parganah shall be patrolled by two Tahsíl chaprassis, who shall receive two rupees each per mensem batta, from the Forest Conservancy Fund.

29. Prizes shall be awarded according to the annexed scale for kelus or deodars planted in localities where they were formerly unknown, and seeds of these trees shall be gratuitously distributed each year to the forest keepers by the Deputy Commissioner.

For the first twenty deodars raised above 5 feet, ...	Rs.	5	0	0
Ditto 50 feet, ...	„	10	0	0
Ditto 100 „	„	20	0	0

In abeyance at present as regards wood-cutters, *vide* docket No. 71 dated 17th January 1860, from Secretary to Government Punjab.

30. Wood-cutters and charcoal-burners shall be allowed to remove one load per diem of wood or charcoal, on their taking out an annual license, of four annas to the former, and one rupee to the latter ; but this rule will only apply to those who sell wood or charcoal in neighbouring towns or markets. Licenses will be granted by the Tahsildars.

Supplementary Rule for Dharmsalah Forest.

A Chaprassi shall be specially appointed to watch this forest, receiving 2 rupees batta monthly, in addition to his regular pay, from the Conservancy Fund. For every tree cut in this forest by European or Native residents, and officials, including those in the Department of Public Works, a fee of four annas shall be paid.

(Sd.) P. S. MELVILL,
Offg. Commissioner and Supdt.

Office note.—These rules have been compiled from Mr. Bayley's Rules, as amended by Major Lake, (*vide* enclosure to his No. 11, dated 14th January 1859), and from the propositions made in that letter, as sanctioned by the Punjab Government.—(*vide* Secretary's No. 226 dated 25th January 1859.) 1 to 20 inclusive are the old rules, and the subsequent rules have now been added.

(Sd.) P. S. MELVILL,
Officiating Commissioner and Superintendent.

III.—TOLLS AND FERRIES.

The introduction of Tolls on Ferries was one of the measures sanctioned by the Governor General in the despatch abolishing Transit Duties, No. 2766, dated 27th December 1849, to the Board of Administration, para. 15, *(ante p. 327)*. Such tolls were accordingly generally established, and their proceeds, except on lines of road constructed and maintained by the Imperial revenues, were credited to Local Funds.

In 1857 the Governor General in Council authorized the levy of tolls on the Simlah Hill Roads, and declared the general provisions of the Toll Act, No. VIII of 1851, applicable to the Punjab, but he evidently did not consider the rates of toll fixed by Section 2 as binding in regard to that province, as he established a scale of tolls in some respects in excess of the rates mentioned in the Schedule.

In 1859, by Punjab Government letter No. 998, dated 10th May, to the Judicial Commissioner, certain rules as to exemption from tolls, proposed by that officer, were sanctioned, and these were accordingly published in his Book Circular No. XXIX—60, dated 17th May 1859. They appear, however, to amount to no more than an exposition of the provisions of Act VIII of 1851 as to exemptions. This remark also applies to Punjab Government letter No. 2450, dated 28th December 1860, approving of instructions issued by the Judicial Commissioner to the Commissioner of Multan, on the subject of the exemption of military grass-cutters on production at the ferry of a pass from the Deputy Commissioner.

By letter No. 1616, dated 31st August 1860, to the Judicial Commissioner, the Lieutenant Governor laid down the rule that persons crossing and re-crossing boat bridges in the same day should only be liable to pay on crossing the first time, and this rule was made public by Judicial Commissioner's Book Circular No. XL—80, dated 3rd September 1860.

TOLLS.

Extract para. 19 of No. 4035, dated 21st August 1857, from the Secretary to Government of India, Public Works Department, to Chief Commissioner of the Punjab.

As regards the question of exemptions from tolls, persons exempt under the Act should certainly be allowed to pass free on these roads also. The Governor General in Council is of opinion that the general provisions of the Toll Act, No VIII of 1851, must be held to be applicable to the Province under you, as well as to all other parts of India.

The letter from which the above extract is taken, sanctioned the levy of tolls on the Simlah Hill Roads, and established a scale of tolls in some respects in excess of the rates mentioned in the Schedule annexed to Act VIII of 1851. A subsequent letter, No. 3784 dated 9th August 1858, from the Secretary to the Government of India, Public Works Department, to the Chief Commissioner, conveyed the sanction of the Hon'ble the President in Council to a revised Schedule of Tolls for the Kalka and Simlah Roads. It appears, therefore, that though the Governor General in Council declared the general provisions of Act VIII of 1851 applicable to the Punjab, yet he did not consider the limitation of the rates of toll imposed by Section 2 of that Act binding upon him in regard to this Province. As, however, the Schedule annexed to Act VIII of 1851, was subsequently repealed by Act XV of 1864, and another substituted, in accordance with which all tolls levied in the Punjab are now collected,* the orders authorizing the rates established in 1857 and 1858 may now be omitted. The extract above given is of importance as an authority for the introduction of Act VIII of 1851.

Copy of a letter No. 4944, dated 22nd December 1860, from the Judicial Commissioner of the Punjab, to the Commissioner Multan Division.

The exemption from toll of all Government grass-cutters when crossing the ferries on the Chanab, at Multan, having, it is believed, received the sanction of His Honor the Lieutenant Governor, I have the honor to issue the following instructions on the subject, in reply to your letters No. 237, dated 4th, and 248, dated 15th, current.

2. To entitle the grass-cutters and their ponies to exemption from ferriage, it will be necessary that they be in pursuit of their own proper avocations at the time; and, secondly, that they present at the ferry a pass from the Deputy Commissioner of Multan. A sufficient supply of passes should be furnished by the Deputy Commissioner to the several Commanding Officers in the station.

Copy of a letter No. 2450, dated 29th December 1860, from the Secretary to Government Punjab, to the Judicial Commissioner Punjab.

With reference to his No. 689—4945, dated 22nd instant, approves of the instructions issued by him to the Commissioner of Multan, regarding exemption of Government grass-cutters from payment of toll at the ferry on the Chenab.

Copy of No. 1616, dated 31st August 1860, from the Secretary to Government Punjab, to the Judicial Commissioner Punjab.

It being proved by the returns of last year that the double charge made on persons crossing and re-crossing on the same day bridges

* *Vide Smyth's Acts applicable to the Punjab, pp,* 131. 132 *and* 730.

of boats in the Punjab, is not necessary to balance the income and expenditure, the Honorable the Lieutenant Governor is pleased to direct that a single charge only be made in future. Parties therefore crossing and re-crossing the same day will henceforth be charged only when first crossing. They should be furnished with a ticket, which should be stamped with the date, as it will be available only for one day. It is possible that instances of fraudulent transfer of tickets from one person to another may occur; but these, when detected, should be severely punished.

NOTE.—A copy of the above letter was circulated with Judicial Commissioner's Book Circular No. XL—80, dated 3rd September 1860.

IV.—SUPPLY OF CARRIAGE FOR TROOPS.

The subject of the supply of carriage for troops was one of considerable difficulty in the earlier days of the Punjab Administration, when, owing to the absence of made roads, carts were few everywhere, and in some districts unknown. In 1850, at the instance of the Lieutenant Governor, North Western Provinces, the Governor General directed that all carriage from the North Western Provinces should be relieved at Ambalah, unless the carters voluntarily agreed in writing to proceed further, but authorized the Board, if there was any difficulty in carrying this out, to keep back the order pending a reference to Government *(No.* 1524, *dated 9th August* 1850, *to the Board of Administration)*. The Board issued the order in their No. 1269, dated 23rd August, to the Commissioner Cis-Satlaj States, and directed the observance of the rules contained in a Circular Order of the Lieutenant Governor, North Western Provinces, dated 21st June 1850, published in *Agra Government Gazette Extraordinary* of the 6th July 1850, one para. of which had been referred to by the Lieutenant Governor.

In their Secretary's No. 44, dated 15th January 1852, to the Government of India, para. 8, the Board represented that these rules pressed with peculiar severity upon the territories under their control, and with that letter they submitted for the sanction of Government rules for the supply of carriage in the Punjab. These rules were approved, with a single modification, by the Governor General in Council, in Proceedings in the Military Department, No. 395, dated the 12th June 1852, and were circulated, as modified, with the Board's Circular No. 21 of 1852—*Reprinted with Judicial Commissioner's Circular No.* 6, *dated* 1*st February* 1856.

By Judicial Commissioner's Circular No. 83 of 1856, (dated 8th November) a pamphlet regarding encamping grounds, supplies, and police on the Grand Trunk Road, was circulated for the guidance of officers in the Punjab, and a reprint of this, with certain alterations proposed by the Judicial Commissioner, was approved of by the Lieutenant Governor in 1859, *(Punjab Government letter No.* 991, *dated 7th December* 1859, *to the Judicial Commissioner)* and was circulated with Judicial Commissioner's Circular No. 6, dated 3rd February 1860. The rules contained in this pamphlet are almost entirely of an administrative character, but Section IX (paras. 72 to 84) consists of the rules for the supply of carriage to troops, with a few merely verbal alterations, and Section X (paras. 85 to 90) of supplementary rules for the Jehlam Division.

Revised rules were issued by the Lieutenant Governor in 1866, and though his sanction would not then give them the force of law, yet, as they probably do not depart from the previous rules upon which they were founded in any respect in which it would be beyond the competency of the Executive Government to alter them, they may be regarded as having the same force as the old rules, which had obtained the force of law, so far as they contain any provisions which require legislative sanction. There are of course many matters provided for in the old rules for which no such sanction is requisite.

SUPPLY OF CARRIAGE FOR TROOPS.

Extract part of para. 5 of No. 667A dated 29th July 1850, from Secretary to Lieutenant Governor, North Western Provinces, to Secretary to Government of India.

5. . . . . Meanwhile the evil is great and pressing. The intervention of Civil officers must be put under control till it can be entirely prohibited, and with this view the Lieutenant Governor desires me to solicit that the Most Noble the Governor General will be pleased to issue stringent orders to the local authorities at Ambalah, through the Board of Administration at Lahore, that the rule laid down in para. 5 of the Circular Order of June 21st, 1850, be strictly observed, and no carriage carried westward beyond Ambalah, except on voluntary written agreement.

Copy of No. 1524, dated 9th August 1850, from Secretary to Government of India with the Governor General, to the Board of Administration.

In forwarding the enclosed copy of a letter from the Secretary to Government North Western Provinces, dated 29th ultimo, No. 667 A, regarding the supply of carriage for troops on the line of march, I am directed by the Most Noble the Governor General to convey to you His Lordship's wish that you should act upon the suggestion of His

Honor the Lieutenant Governor, contained in the last paragraph thereof. If any difficulty should occur in so doing, you are requested to inform His Lordship of it before issuing your orders.

NOTE.—It may be doubted whether the language of the above admits of its being considered as a rule, law, or regulation, such as is contemplated by Section 25 of the Indian Councils' Act. The rule was, however, put in force by the Board—See their Circular No. 21 of 1852.

Extract paras. 8 to 13, 16 to 19, and 25 and 26, of letter No. 44, dated 15th January 1852, from the Board of Administration for the Affairs of the Punjab, to the Secretary to the Government of India.

8th.—It will be evident from this statement, that the rules framed by the Lieutenant Governor North Western Provinces, dated 21st June 1850, and sanctioned by the Most Noble the Governor General on the 9th August 1850, must press peculiarly hard on the territories subject to the Board. The 5th clause of those rules imposes the necessity of a change of carriage at Ambalah, which is the channel of all communication between the Agra province and the Punjab; and, in order to carry out the rule which has been sanctioned, every effort has been made by the Civil authorities at that place, but hitherto with very partial success.

9th.—The Board fully acquiesce in the spirit of the rules drawn out by the Lieutenant Governor, and it is their most anxious desire cordially to unite in the great efforts which His Honor has made, and is making, to apportion the burden as equally as possible on the people of the country. They hope, in a short time, to increase the number of carts, by aiding those willing to construct them with small advances on their furnishing good security; they have reason to believe that advances for such a purpose will be eagerly accepted.

10th.—Any arrangement to be carried out successfully must embrace the following points:—The owners must be secured from loss by payment of a portion of the hire in advance, and the authorities, requiring the carriage, must be held responsible for the payment of the balance due. The carriage must be changed, except when the owners themselves desire the contrary, at intervals not exceeding 100 miles. Carts must not be overloaded, return carts must be saved from seizure by a return pass, and the Civil officers must act in concert and carry out the rules laid down.

11th.—The hardship of carrying away the carts for prolonged periods is ruinous to the agriculturists, whilst it leaves the district destitute of carriage. Instances are not uncommon where carts have been detained a whole year, and upwards, having been repeatedly taken upon their route homewards, and forced to serve.

12th.—The Officers of the Commissariat Department have brought to the notice of the Board that the description of carriage procurable at Ambalah is so inferior, that the carts are not of sufficient size to convey rum casks, and that only the carts from Mírat and Dehli are able to convey this class of stores. The Board have reason to believe that Commissariat Officers in general, and officers sending up military stores, find no difficulty in engaging carts in the provinces to carry stores as far as Lahore, and the Board know that merchants send, weekly, large despatches of supplies to the Punjab. The reason why they find so little difficulty is, that the owners of the

carriage are paid before hand, the carts are not overloaded, and the drivers are well treated. There is then, the Board observe, no reason for changing the carts at Ambalah engaged in carrying stores, when the parties are willing to proceed onwards.

13*th.*—With the above class of carriage, the Board do not see much difficulty, and they propose that the officers in charge of the Commissariat, and officers attached to Magazines, be directed to engage carts as far as Lahore for all stores required there, or westward of that place; and that they be directed to enhance the rate of payment, if necessary, after passing Dehli or Ambalah; as, until the metal is laid down, the difficulties of the road are very great.

16*th.*—The Board do not anticipate great difficulty in supplying carriage, except to Regiments and detachments on the line of march. The owners of carriage have the greatest dislike to serve on such duty, and will do anything to avoid it. They complain that the remuneration is inadequate, and often not paid at all; of the uncertainty of being relieved, and of their return home; of the overloading of the carts, and the consequent frequent disablement, and often death of their bullocks; they say they are besides subject to the violence and abuse of the soldiers, camp-followers, and attendants; the inhabitants dwelling near the road are harassed by their bullocks being impressed, and taken from their wells and ploughs to supply the place of the cattle which are unable to drag the load.

17*th.*—The Board would here remark that the merchandize of the country is chiefly carried on camels and mules, and that the Punjab generally, including the Cis and Trans-Satlaj States, abounds with camels. Were they used more largely on the line of march a great many of the difficulties now experienced would vanish, but officers often refuse to take them, nor will they do so without the express orders of Government. It has been brought to the notice of the Board that a Regiment * was detained for days beyond the prescribed period for marching on the plea of waiting for carts, the commanding officer refusing to take camels which were offered.

* 3rd Dragoons.

18*th.*—In the rules which the Board are about to propose, the employment of camels in the Punjab, instead of carts, will be strongly advocated.

19*th.*—The rate of hire is a subject on which the Board find a considerable difference of opinion. It will naturally vary with the demand for carriage, and the abundance or scarcity of fodder. They purpose to establish contractors for carriage at each of the principal stations, who are to be remunerated by a small fee, proportioned to the amount of carriage furnished. In the month of September the Deputy Commissioners will fix the rate of hire, which, having been sanctioned by the Commissioners, must be considered binding on all parties. The rate of hire, in justice to the owners, should vary with the circumstances of the season, and the general demand: what at one time is amply remunerative, at another is insufficient, even to feed the cattle. It is the desire of the Board to do away as much as possible with the agency of the police, and it is hoped that the system of having contractors will be found to effect this. The Board are convinced that nothing will tend so much to remedy the evils now

complained of as a liberal scale of remuneration to the owners of carts. It will tend to economise the demand: it will encourage the supply.

25*th.*—The Board regret the length to which the report has run, but the subject on which they have treated is one of great magnitude, and intimately connected with the prosperity of the country and the popularity of our rule. They direct me to add a summary of the principal propositions, regarding which they solicit the sanction of His Lordship:—

26*th.*—*First.*—That the sanction of Government be given to the rules appended to this report, and that the rules be promulgated by order of His Excellency the Commander-in-Chief for the guidance of all serving under his orders in the Punjab.

Secondly.—That the sanction of Government be given to small sums being advanced to parties willing to construct a good description of cart, on their tendering ample security for the repayment of the same.

Thirdly.—That for a moderate period all Government Officers attached to the Commissariat and Magazine Departments be directed to arrange with parties for the delivering of stores as far east was Lahore, and that, as an inducement to parties to engage, the officers be permitted to raise the rate of hire on the carts leaving the metalled road at Delhi, &c.; also that Commissariat Officers be directed to devise a plan by which stores may be sent beyond Lahore on camels.

Fourthly.—That all Officers in command of Regiments and detachments entering the Punjab at Ambalah, be directed by a General Order to be issued by the Commander-in-Chief, to arrange for the transport of their baggage on camels, as the number of carts in the Punjab is very limited, and that beyond the Chanab they do not exist.

Fifthly.—That Regiments and detachments be directed by His Excellency the Commander-in-Chief, to provide themselves with porters of all kinds before starting on their march, to be changed only at the principal stations on the line of march.

Rules for the supply of carriage in the territories subject to the Board of Administration in the Punjab.

1*st.*—In the territories subject to the Board of Administration, carts are, on every practicable occasion, to be dispensed with, and, beyond the river Chanab, camels are invariably to be taken, except for the conveyance of the families of European soldiers, or for the transport of such Government stores as cannot be conveyed on camels.

From Ambalah in the east, to Peshawar in the west.

2*nd.*—Indents, submitted by officers (authorized to send them,) entering the Punjab at Ambalah, should contain, invariably, the number of camels that are required, in case carts are not procurable.

3*rd.*—All applications for carriage are to be made on written indent, countersigned by the Officer Commanding the Corps; where the carriage is urgently required by a detachment, however small, or by individuals marching through the country, still the requisition must be made in writing, and signed by the responsible officer making the requisition. The Civil Officers of Government are strictly prohibited, under any circumstances, from furnishing carriage on

verbal orders, either communicated directly, or through a servant or other subordinate. If the applicant has not writing materials at hand, the Civil Officer to whom the application is made, will himself draft the requisition, and procure the applicant's signature to it, before he complies with the demand.

4th.—If the indent or requisition is for a larger quantity of carriage than is ultimately taken, demurrage, at the rate of half the established hire of the district, shall be charged for every day, or part of a day, that the carriage has been detained. If the carriage or cattle supplied on indent, be declared by a Committee of Officers not to be serviceable, no charge shall be made for demurrage.

5th.—Unless in cases of emergency, such as the breaking down of carriages, death of cattle, &c., carriage or camels are not to be exchanged, except at the principal stations along the road. Carriage will be relieved at Jalandhar, Firozpur, Amritsar, Lahore, Jehlam and Rawalpindí Regiments and detachments taking carriage at Jalandhar and Firozpur, and which do not go west of the Chanab, may take the carriage to their destinations; if proceeding towards Multan, the carriage must be exchanged at Lahore.

6th.—In order to prevent delay, Civil Officers furnishing carriage at one of these stations, shall immediately forward a copy of the indent to the next of the stations indicated in rule 5th that the Corps will reach, in order that preparations may be made for the relief of the carriage, camels, &c. A copy of the letter forwarding the indent shall be furnished to the Officer Commanding the Corps, who will demand it previously to marching from each of the above stations, if it be not previously sent to him.

7th.—Whenever carriage is engaged to any place, half the hire must be paid in advance. The Civil Officer furnishing the carriage is bound to see that this advance is made before the carriage is made over to the applicant. The Commanding Officer of a Regiment or detachment, or the individual taking carriage, shall be held responsible for the full payment of the carriage furnished on its reaching the destination agreed upon; as well as for securing to each owner payment of hire for halts, and any demurrage that may be incurred. If, under any circumstances, a subordinate Civil Officer furnish carriage without providing that the advance be paid, he is immediately to report the circumstance to the Civil Officer, on pain of being held personally responsible for the amount. The Civil Officer will report the circumstance direct to the Commanding Officer of the Regiment, and provide that full payment be made to the person engaged.

8th.—The authorized loads for carts are as follows:—

If drawn by 2 bullocks,	8	maunds.
If drawn by 3 bullocks,	12	Do.
If drawn by 4 bullocks,	16	Do.

The authorized loads for camels are 5 maunds, but west of Jhelam only 4 maunds.

9th.—As rates for wheeled carriage and camels will necessarily vary according to the demand and the cost of fodder, the Civil Officers in charge of districts will, in communication with the Commissioners to whom they are subordinate, fix the rates of hire (in September of each year), which rates must be considered to be binding on all parties

requiring carriage. In addition to the regular hire, a small fee will be charged for the benefit of the contractor or chaudhri furnishing the carriage, which fee must be paid in advance, before the carriage is furnished.

This clause rescinds a portion of clause 7 of G. O. G. G., No. 360, 2nd September, 1824, which fixes half hire for the return carriage at the rate of 8 kos per day.

10*th*.—Back hire at half the fixed rates, for the same number of stages, returning, is to be paid in every instance when carriage is furnished by the Civil Authorities; when carriage is brought back by the party taking it, the full rate will be paid for the back trip; therefore, in such case, back hire will not be paid in addition.

11*th*.—Bearers, coolies, guides and watchmen, will be furnished at the established district rates, on full payment being made in advance.

12*th*.—Carriage of any description, to a limited extent only, can be furnished at once: officers and other parties requiring carriage to a considerable amount should give at least from 10 to 15 days previous notice. If this is not done, the authorities cannot on the instant arrange for the supply.

Copy of No. 2054, dated 18th June 1852, from Officiating Secretary to the Government of India, Foreign Department, to the Board of Administration for the Affairs of the Punjab.

From Secretary, dated 15th January 1852, No. 44. From Secretary dated 5th June 1852, No. 557.

The subject of your despatches noted on the margin* having been under consideration in the Military Department, I am now directed to sent you the accompanying copy of an extract from that Department No. 395, dated the 12th instant, and of its enclosure, containing the orders of the Most Noble the Governor General in Council in regard to the rules proposed for the supply of carriage in the Punjab.

Extract from the Proceedings of the Most Noble the Governor General of India in Council, in the Military Department, No. 395, dated 12th June 1852.

The Most Noble the Governor General of India in Council agrees with the Commander-in-Chief, that for the reasons stated by His Excellency, it is not possible to prohibit the use of carts beyond the Chanab for the conveyance of the wives and families of soldiers on the line of march, nor for the transport of certain stores, which cannot be conveyed on any other description of carriage. His Lordship in Council therefore suggests the following modification of the 1st Rule.—"Carts are, on every practicable "occasion, to be dispensed with, and beyond the river Chanab camels "are invariably to be taken, except for the conveyance of the families "of European soldiers, or for the transport of such Government stores "as cannot be conveyed on camels."

NOTE.—The Rules made by the Lieutenant Governor in 1866 are founded on those sanctioned in 1852, many of which, as for instance Rule 7, are incorporated, though the present rules go more into detail.

Extract from a letter No. 991, dated 7th December 1859, from the Secretary to Government Punjab, to the Judicial Commissioner for the Punjab.

I am directed to forward the pamphlet regarding the march of troops &c., and to inform you, with reference to your letter No. 694,

of 1st instant, that the Honorable the Lieutenant Governor quite approves of all the alterations which you propose to make in the reprint.

Extract from Rules regarding Encamping Grounds, Supplies, Police, &c., prepared under orders of the Judicial Commissioner Punjab.

SECTION X.

SUPPLEMENTARY RULES FOR THE JEHLAM DIVISION.

85. The following are the rates for camels:—

No. of camels taken by each party.	*Rate per month for each camel.*	*No. of Sarwans or camel-drivers allowed.*
A single camel, ...	10 Rs. ...	1
2 camels, ...	9 „ ...	1
3 „ ...	8 „ ...	1
6, and any number above, ...	8 „ ...	2, *and so on, viz., one man to every 3 camels.*

86. If a party indent for more than 6 camels, and the number leaves a remainder when divided by three, he is to pay for the odd one or two camels at the higher or lower rate, according as he may determine to demand or dispense with a Sarwan for them.

87. In order that the District Officer may be able to provide the proper number of Sarwans, it is requested that, in Regimental indents, the number of parties, and the number of camels required for each, may be stated.

88. The rates for mules, bearers, and coolies are stated as below:—

For Mules, ...	annas, per diem. *
„ Bearers, ...	„ „ „
„ Coolies, ...	„ „ „

89. The above are not to be changed, excepting at the stations named in para. 76. Back hire is to be given according to para. 82, and pre-payment is to be made as required by paras. 78 and 83. †

90. The Chaudhri's fees have been fixed at the following rates:—

Carts, each	2 annas.
Camels, „	1 „
Mules, „	6 pies.
Coolie or Bearer, ...	6 pies.

V.—TOWN DUTIES.

Before the annexation of the Punjab, duties levied upon the mercantile transactions of the principal towns formed a considerable item of revenue to the Government. This source of revenue was given up by the British Government, but in many places a moderate rate of the same nature was retained at the wish of the people for the purpose of paying the expenses of watch and ward, and of making such improvements in the

* The rates are not specified in the pamphlet.

† Para. 76 corresponds with the 5th of the preceding Rules; para. 78 with the 7th; para. 82 with the 10th; and para. 83 with the 11th.

towns as were considered necessary, in preference to providing for the same objects by a house tax. When the Dehli territory was transferred to the Punjab, the same system was introduced into some places there, the income raised by other means being found insufficient. In 1859, for instance, the Lieutenant Governor authorized the adoption of the Punjab system of town duties in the town of Bhawani in the Rohtak district; and in the same year he suggested its substitution for the Chaukidari tax at Dehli, where the measure was actually carried out after he had sanctioned the substitution of an enhanced octroi duty for the license tax in towns and villages where such a duty already existed, or where the people preferred its introduction.

Rules for Municipal taxation in the Amritsar Division.

In 1859 also, rules were proposed by Mr. Cust, then Commissioner of Amritsar, for the regulation of the municipal taxation of the Amritsar Division, and these were, with some modifications proposed by the Judicial Commissioner, sanctioned by the Lieutenant Governor in letter No. 1019, dated 30th April 1859, to the Judicial Commissioner.

Enhanced town-duties substituted for license tax.

On the introduction of the license tax, under the authority conveyed in Government of India No. 6154, dated 5th October 1859, *(ante, p. 345)* the Lieutenant Governor authorized the introduction or augmentation of town duties in its stead, where these were preferred by the people, and this led to a considerable increase in the number of places in which this mode of raising a municipal income was resorted to. The license tax was abolished after it had lasted one year, and the town duties were in consequence reduced to the scale considered sufficient for municipal purposes, but the high rate which had existed in the meantime made it necessary to prescribe rules as to many matters of detail, which might have escaped notice under other circumstances.

Rules as to goods in transit, &c.

Among these were the exemption from enhanced rates of articles which had already paid a customs duty at the seaport, and were almost exclusively consumed by Europeans; the exemption from duty of goods in transit; and the exemption of saltpetre as it already paid a heavy tax per pan used in the manufacture.

Town duties continued for Municipal purposes, unless house tax preferred by the people.

On the abolition of the license tax, the Lieutenant Governor directed that the octroi duty, at the rates which had formerly been in force, should continue to be levied for conservancy and police purposes *(docket No.* 2069, *dated* 13*th August* 1860, *to Judicial Commissioner)*, but gave the people the choice of a house tax instead, if they preferred it, *(No.* 582, *dated* 28*th August* 1860, *to Judicial Commissioner)*. In the case of Military Cantonments, into which an octroi had been introduced, he ordered that the old chaukidari cess or house tax should be reverted to, finding that it was generally preferred both by the officers consulted, and by the residents of the bazars, *(No.* 6037, *dated* 20*th November* 1860, *to the Judicial Commissioner)*.

Abolition of sayer at Jhajar.

At Jhajar, where a sayer had been levied under the Nawab, and was continued for municipal purposes, and afterwards as a substitute for the license tax, its abolition was ordered by the Lieutenant Governor when the license tax came to an end.

Act XV of 1867.

By section 20 of Act XV of 1867, *(an Act to make better provision for the appointment of Municipal Committees in the Punjab, and for other purposes)* all rules or regulations relating to matters provided for in that Act which had been made by, or received the approval of, any Lieutenant Governor or Chief Commissioner of the Punjab before the passing of that Act, are to be deemed to have been made in accordance with its provisions. The validity of these rules therefore does not depend upon the Indian Councils' Act alone.

Copy of a letter No. 206, dated 15th March 1859, from Secretary to Government Punjab, and its Dependencies, to the Judicial Commissioner Punjab.

I am directed to acknowledge your letter No. 121, dated 11th instant, relative to the general introduction of the chungí tax, and to state, in reply, that His Honor the Lieutenant Governor will be glad to learn that this tax has been substituted for the chaukídari tax at Delhi.

NOTE.—This was not acted upon till towards the end of the year, when a license tax was introduced in the Punjab, but the option was given of substituting an enhanced octroi duty where this was preferred by the people.

Extract part of para. 2 of a letter No. 97, dated 28th January 1859, from the Secretary to Government Punjab, to the Judicial Commissioner of the Punjab.

2. The Lieutenant Governor approves of your substituting the chungí tax as paid on commodities in the towns of the Punjab, for the Wadní Tax proposed by Mr. Brandreth.

NOTE.—The above order referred to the town of Bhawani in the Rohtak district, where additional taxation for local purposes was found necessary.

Extract paras. 3 to 7 of letter No. 217—1903, dated 27th April 1859, from the Judicial Commissioner of the Punjab, to the Secretary to the Government of the Punjab.

3. I also agree to that part of Mr. Cust's second proposition which refers to the levying of the Chungí Tax on sales in the town or village, and not on goods in transit; but I do not see the necessity for limiting the tax to places which the Commissioner would define as marts, or for abolishing it in small villages where it may already exist. When the amount realized from this cess is very trifling, as compared with the watchmen's wages, I would agree to its abolition. But if it be sufficient in amount to lighten in some perceptible degree the burden of paying these wages, why abolish it? Whenever it amounts to one-fourth of the watchmen's wages, I would continue to levy it; but expend it in all cases in the first instance, in the wages of the watch, the surplus, if there is any, going to conservancy and municipal improvements.

4. Mr. Cust's third proposal is that the rate of cess should be uniform for all districts. I fail to see the advantage of this. The object of the tax is to meet the cost of watch and conservancy: a lighter tariff may accomplish this object in one town than in another; uniformity may lead to needless surplus in one place, and deficiency, to be made up by some other tax, in another. I would not insist on uniformity, nor do I think the adoption of a uniform pattah which constitutes Mr. Cust's seventh proposition, to be necessary.

5. In his fourth proposition the Commissioner advocates the abolition of house tax, wherever it may exist in towns which pay a chungí cess, except as a supplementary tax, in cases where the chungí is insufficient to meet the cost of watch and conservancy. Whenever possible, I would avoid it, even as a supplementary tax. We know how it is hated. When existing rates are insufficient, the chungí rates might be raised, or more articles might be included in the tariff, or some other tax might be resorted to for the purpose of eking out a sufficient income.

6. Let us suppose a village of considerable size, having three chaukidars receiving 3 rupees a month, the total amount of their wages would be Rs. 108 a year. The agreement at the settlement has been, perhaps, that the proprietary body pay up the Rs. 108, in the ratio of each man's portion of revenue. Perhaps there are 10 or 20 artizans paying a motarpha tax of say Rs. 1-12-0 each. Suppose this yields Rs. 30, and that it is by agreement devoted to reducing the burden of the watchmen's pay. The proprietary body will then have to find Rs. 108, less 30, or 78 per annum. But if there has also been heretofore taken a chungí of Rs. 30, and it is paid easily, why do away with this chungí? Why not give the lease of the chungí to the lambardars, and thus reduce the burden on the proprietors from Rs. 78 to 48, and perhaps thereby avoid the odious house tax.

7. With regard to the collection of the pay of the watch, in the case I have supposed, the Rs. 108 would be paid by the lambardar to the Tahsildar, and this would be the case in every village where the chungí does not exceed the cost of watch and ward. But the village proprietors would receive of the Rs. 108, from kamianah Rs. 30, from chungí Rs. 30, and would have to stand the loss of only Rs. 48, which they would pay by bachh, or by house tax, as they may prefer: only the artizan who pays motarpha tax should not pay house tax also.

Copy of letter No. 1010, dated 30th April 1859, from Secretary to Government Punjab, to the Judicial Commissioner, Punjab.

I am directed by the Honorable the Lieutenant Governor to acknowledge your letter No. 217, dated 27th instant, regarding "chungí" receipts in the Amritsar Division, and to reply as follows.

2. The Lieutenant Governor concurs with you in confirming the 1st, 5th, and 6th, of the proposals made by the Commissioner of Amritsar. The fund therefore may be denominated "chungí" in all official papers. Its proceeds, to the extent proposed by the Deputy Commissioner, subject to the sanction of the Commissioner, will be firstly devoted to the cost of watch and ward and conservancy; and, secondarily, when these demands have been satisfied, to the accumulation of a fund for municipal improvements, and such funds will be expended exclusively in improving the particular mart from which the surplus has been derived.

3. With regard to the remaining propositions, the Lieutenant Governor agrees with you on those points concerning which you differ from Mr. Cust. The tax will not be levied on goods in transit, nor will it be excused wherever the amount is sufficient to pay a sensible fraction of the watchmen's wages. The rate of the cess should not be uniform, but adapted to the particular circumstances of the mart which pays it, as at present. Nor is there any necessity for a stereotyped form of lease. His Honor further concurs with you in deeming it desirable, either by an increase or an extension of the chungí tax, to dispense with any direct tax on houses, which experience has proved to be so distasteful to the people; and in your decision between the rival claims of lambardars and Bazar Chaudhrís to the farm of the chungí.

The propositions of the Commissioner of Amritsar, sanctioned in the 2nd para, were the following, contained in para. 8 of Commissioner's No. 144, dated 18th April 1859, to the Judicial Commissioner.

I.—That the demand be henceforward called "chungí" only, all local customs notwithstanding.

V.—That in all cases the Deputy Commissioner appropriate for the purposes of watch and ward, and conservancy, as large a sum as he considers sufficient for those purposes, obtain the sanction of the Commissioner to the appropriation, and the residue only be at the disposal of the Municipal Fund Committee.

VI.—That this surplus be religiously expended on local improvements in the particular mart in which it accrued, and be not not thrown into a common district fund.

NOTE.—Bye-laws were subsequently made for Amritsar at various times before the passing of Act XV of 1867, but do not appear to have received the approval of the Lieutenant Governor. The last of these bye-laws were made for the Amritsar Division in 1864, by the Commissioner, under the authority of Judicial Commissioner's Circular No. 17 of 1863. Bye-laws made under that Circular would not be rendered valid by Section 20 of Act XV of 1867, unless they had received the approval of the Lieutenant Governor.

Extract paras 1, 2, 7 to 10, and 13, of letter No. 1356, dated 29th October 1859, from Secretary to Government Punjab, to the Officiating Financial Commissioner Punjab.

I am directed to inform you that the Supreme Government have empowered the Honorable the Lieutenant Governor to raise the price of Cis-Indus salt from Rupees 2 to 2-2-0 per maund. A notification therefore has been put into the gazette proclaiming that this augmentation will take effect six months after the appearance of the notification.

2. The sanction of His Excellency the Governor General in Council has also been obtained to the imposition of duties on traders and shopkeepers. The Lieutenant Governor is anxious, in introducing this measure, to conform, so far as local circumstances will admit, to the general tenor of the legislation, which may be expected to comprehend all the Regulation provinces of the empire. Much variation in detail may be permitted, but the necessity for raising an adequate revenue from the non-agricultural classes is as pressing in the Punjab as elsewhere.

7. The Lieutenant-Governor has however ascertained that there is in some places a disposition on the part of native merchants, &c., who will be subject to the proposed taxation, to raise the required amount of revenue by means different from those proposed by Government, but more agreeable to the mercantile and trading community. For instance, the people of Amritsar have themselves solicited the District Officer that they may be allowed to pay into the treasury a sum equal to treble the value of the present octroi duties, instead of being obliged to take out dutiable licenses. The Lieutenant-Governor has reason to believe that this sum will be fully equal to the proceeds of the proposed tax, and permission has been granted to the District Officer to give effect to the arrangement. In the same district, His Honor has also authorized the substitution of a trebled octroi duty for the license tax, in all towns and large villages, where it may at present exist, or the people may prefer its introduction.

8. I am to say that the Lieutenant Governor is willing to sanction this arrangement wherever it may be considered desirable by the Local authorities, and agreed to by the people concerned. It has many advantages: it is suited to the genius of the people; it exempts them from inquisition and vexation at the hands of petty officials and informers; it diminishes the cost of collection; and at the same time supplies an income equivalent to that which would accrue from the tax. Moreover, the octroi duty, like the license tax, must ultimately be paid by the consumers and the general community; and thus have a similar operation on the aggregate resources of the country.

9. The *average ad valorem* duty on commodities at Amritsar and Lahore, is now Rs. 1-8, and trebled will amount to Rs. 4-8. But the same average rate may not be applicable to less considerable towns and villages. The following graduated rates are therefore prescribed :—

For large cities,	Rs. 4- 8	*ad valorem*,	Per cent.
Towns, 1st class,	„ 3-12		
Ditto 2nd ditto,	„ 3- 0		
Villages,... ...	„ 2- 4		

10. Provided, therefore, that a revenue be raised equal to the estimated revenue from the license tax, the Lieutenant Governor would prefer the introduction or augmentation of the octroi duties wherever practicable.

13. Traders and shopkeepers residing in Cantonments will be liable to the *license tax*, or to the *octroi duties*, as may be determined by the local authorities. Officers Commanding in Cantonments have been requested to direct the Cantonment Joint Magistrate to communicate with the Commissioners of Divisions on the subject.

Circular No. 14—1387, dated 3rd November 1859, from Secretary to Government Punjab, to all Commissioners.

I am directed to forward, for your information, the annexed letter from the Commissioner of Lahore, explaining the manner in which the increased octroi duties have been applied to the city of Lahore and the Cantonments of Mían Mír. Appended are tables of rates and copies of the lease granted to the contractors.

2. The Lieutenant Governor, I am to say, considers the exemption from octroi duty of articles of exclusively European consumption, referred to in para. 6 of Mr. Temple's letter, which have already paid a high customs duty at the seaports, to be equitable, and desires that it may be made in all Cantonments.

3. Copies of this correspondence will be sent direct to Deputy Commissioners from this office, and also to Officers Commanding Military Stations, and Cantonment Joint Magistrates.

P. S.—The Lieutenant Gvernor desires me to add that the nearer District Officers approach to the arrangements herein detailed for large cities, the better it will be.

Extract paras. 5 and 6 of letter No. 188, dated 2nd November 1859, from Commissioner Lahore Division, to Secretary to Government Punjab.

5. Within the circle of Lahore, the Anarkallí Bazar is included. In that Bazar, however, there is sold one kind of article, whereon no enhanced rates have been imposed, *viz.*, European articles consumed solely by Europeans, which have already paid sea-board customs duties, such as Wines and Spirits, Oilman's Stores, Cutlery, Glassware, Saddlery and the like.

6. At the same time, it was necessary to bring the large Cantonment Bazars at Mían Mír under the same duties as the Lahore City. If there were to be no duties on the one, and comparatively heavy duties on the others, a portion of the traffic might be diverted from one to the other. With His Honor's sanction, I therefore proceeded at once to arrange this matter with the Cantonment authorities. We found that 300 rupees per month were already raised from the Cantonment Bazars, by means of the old house tax, for the payment of the watchmen. It was then decided to impose Bazar duties on the same principle as the town duties, and at the same rates (with certain exceptions to be noted presently), from the proceeds of which one-third would be devoted to the watch, the other two-thirds belonging to the State revenues. Thus, the existing house tax would be abandoned. I then concluded a contract for 1,000 rupees per mensem, for six months, *i. e.*, till the end of April next, the close of the current official year. The contractor will pay the 1,000 rupees a month, collecting the duties at the prescribed rates. Of this amount, 300 rupees will he paid for watch, and 700 rupees will belong to Government. To this arrangement I have obtained

the concurrence of the Superintendent of Cantonment Police. I have also explained it all to the Brigadier Commanding, and I believe that he concurs. As regards rates, all country articles will pay duty at 4½ per cent. *ad valorem*, as they enter the bazars. European articles consumed partly by natives and partly by Europeans, such as piece goods and the like, will pay 3 per cent.; Europe articles consumed by Europeans alone, such as those mentioned in para. 5, (respecting Anarkalli) will be *free;* so also articles for messes of Regiments, and for Government. Posts have been set up on the several roads leading into Cantonments; here men are stationed to note the goods as they pass in, but the actual collections will be made at one place within the Cantonment. The contractor is a popular and influential man; I trust his people will not commit any oppression. I have particularly impressed the Cantonment Joint Magistrate on this head. The new system was established on the 1st November. The Cantonment Joint Magistrate anticipates that it will be rather popular than otherwise with the bazar people, especially as it is accompanied by the abandonment of the house tax. I annex translation of the contractor's lease.

Circular No. 23—1459, dated 17th November 1859, from Secretary to Government Punjab to———

I am directed to intimate that the Lieutenant Governor, after the experience he has obtained, is opposed to the imposition of octroi duties on villages. It will be better, His Honor considers, to confine the operation of these duties to towns and kasbahs having a considerable non-agricultural population. They would otherwise bear heavily on the agriculturists, and it would be difficult to control the contractors. You will be good enough to cause these instructions to be carefully attended to.

2. His Honor has observed that the introduction of the license tax has been satisfactorily managed in the Lahore District, by the Deputy Commissioner, Mr. R. E. Egerton, under the following procedure. The Tahsildar of the Parganah furnishes a list of the bankers, traders and shop-keepers of the village under assessment. He also makes enquiries through the lambardars, patwaris, and other persons possessing local knowledge, and then makes his own estimate of the assessment due from each person. The Deputy Commissioner forms his opinion of the proper amount of assessment which may be taken from the trading population of the village, from the Tahsildar's list, and from his own knowledge or enquiries. He directs the people to nominate a Panchayat of three members to distribute the assessment, and he then announces the total amount which is to be paid by the village. The Panchayat make the distribution, and furnish, within three or four days, a nominal roll of the persons assessed, with the amount of the assessment due from each. It is necessary to check this list carefully, as there is a strong tendency to include in it the petty artizans, who are not liable to the tax. In practice, this plan has been found to work well, and I am to request that you will call the particular attention of the Deputy Commissioners to it.

Copy of a Circular No. 2 dated 3rd January 1860, from the Secretary to Government Punjab to all Comissioners.

I have the honor to inform that, as saltpetre already pays a heavy tax per pan in the manufacture, the Honorable the Lieutenant Governor would exempt it from the new octroi duty.

Copy of a Circular No. 1, dated 2nd January 1860, from Secretary to Government Punjab, to all Commissioners.

The Lieutenant Governor having considered the reports submitted by Commissioners of Divisions relative to the methods adopted for exempting from octroi duty goods *bonâ fide* in transit, is pleased to issue the following instructions on the subject.

2. It is to be understood as a general rule that such goods are not at present liable to be taxed. You will be good enough at once to assign some convenient building, such as a sarai, wherever it may be required, outside the towns of your Division, for a bonded warehouse. Goods in transit must be placed in these appointed sarais, or they will become liable to duty.

3. But where it as been arranged that goods may rest for a specified time *within* cities without being liable to duty, the arrangement may stand if you consider it unobjectionable.

4. At Bhawani and Delhi special rules have been applied to goods in transit. These will continue to be enforced until further orders.

But the Lieutenant Governor desires, as far as possible, to provide that goods in transit be exempted from all taxation, and be subject to duty only on arrival at the mart to which they are consigned; and that suitable arrangements be made for their safe custody in their passage through or near intermediate towns.

Copy of a Circular No. 6 dated 20th January 1860, from the Secretary to Government Punjab, to all Commissioners.

Doubt having been expressed as to what European goods which have paid the sea-board customs' duties are exempt from the octroi tax, I am directed to append a list of such commodities, which are liable to octroi duty neither in Cantonments nor elsewhere.

List.

Tea.

Coffee.

Tobacco, and all preparations thereof.

Spices, including Cassia, Cinnamon, Pepper, Cloves, Nutmegs, and Mace.

Haberdashery, Millinery, Hosiery, Grocery, Confectionery, and Oilman's Stores.

Provisions, Hams and Cheeses.

Perfumery.

Jewellery, Plate and Plated Ware.

Porter, Ale, Beer, Cider, and other similar fermented liquors.

Wines and Liqueurs.

Spirits.

Saddlery.

Copy of a docket No. 2069, dated 13th August 1860, from Secretary to Government Punjab, to the Judicial Commissioner Punjab.

Reply to No. 417, dated 9th August. The old octroi will still be levied for conservancy and police purposes, as heretofore. In the

North Western Provinces the house tax will still continue to be levied. The chungí is only a substitute for it.

NOTE.—This docket was circulated by the Judicial Commissioner with his Book Circular No. XXXVI—72, dated 15th August 1860.

Copy of a letter No. 528, dated 28th August 1860, from the Secretary to Government Punjab, to the Judicial Commissioner Punjab.

With reference to your Circular No. 36 of 15th instant, regarding payment of the new police after the introduction of the income tax, I am directed to say that a house tax may be levied in preference to the octroi, should the people desire it. It is quite optional with the people to choose one or the other; but the City Police and conservancy expenses must be paid out of one or other of those imposts. In Cantonments it will probably be desirable to revert to the old arrangements, and a special report regarding them should be made.

NOTE.—Circulated with Judicial Commissioner's Book Circular No. XXXIX—78, dated 29th August 1860.

Copy of No. 6037, dated 20th November 1860, from Secretary to Government Punjab, Military Department, to the Judicial Commissioner Punjab.

I am desired by the Honorable the Lieutenant Governor to forward, for perusal, the replies received from Commissioners of Divisions, and Cantonment Joint Magistrates, to a Circular issued from this department, regarding funds for payment of Cantonment Police establishments.

2. You will observe that the officers consulted, and bazar inhabitants generally, are in favor of the old chaukidari or house tax being reverted to.

His Honor approves of this cess being re-introduced, and requests you will issue early orders to officers concerned.

It would seem desirable to assess the several bazars, &c., at the same rates as prevailed before the introduction of the octroi; but where, from any causes, excess or decrease may be necessary, the Commissioner of the Division, in communication with the Cantonment Joint Magistrate, should determine a fair and equitable rate.

NOTE.—Circulated with Judicial Commissioner Book Circular LXI—118, dated 23rd November 1860.

Extract para 2, of a letter No. 1368, dated 15th September 1860, from the Secretary to Government Punjab, to the Commissioner Hissar Division.

But, inasmuch as the octroi and sayer on account of the Imperial tax shall cease on the 1st November next, the people of Jhajar, as well as elsewhere, must choose their own mode of paying the chaukidars—*i. e.*, either by a house tax or chungí.

Copy of a docket No. 1488 of 6th October 1860, from the Secretary to Governmen Punjab, to the Financial Commissioner of the Punjab.

In reply to No. 854, dated 25th September 1860, His Honor agrees to his proposal to abolish the Jhajar sayer with effect from 1st November next.

VI.—Clearances at Delhi.

On the re-capture of Delhi by the British troops from the rebels in 1857, the Mussalman population was excluded from the city, and their houses were placed under attachment. They were, after some time, allowed to return to Delhi, and their houses were released by order of the Government of India. In the meantime extensive clearances within the city walls had been determined upon on military grounds, and orders were given on several occasions by the Governor General with reference to the extent of the demolitions, the parties to whom compensation should be awarded for the demolition of their houses, and the mode in which compensation should be effected. As regards the latter point, the system ultimately decided on was to adjust the compensation from the sale of the confiscated houses of rebels, not included in the clearances, by allowing the owners of the demolished houses to bid for them, and to deduct the amount awarded to them in compensation from the sum payable for the houses they might purchase; further, the compensation was to be increased or diminished as the confiscated houses sold for more or less than their estimated value. Under the rules thus laid down, the case of *Lala Sahib Sing* v. *the Secretary of State for India,* was decided by the Chief Court in 1869, (*Punjab Record for* 1869, *Civil Judgments, p.* 118). These rules are now of importance only in regard to suits brought under them, the clearances with reference to which they were made having been completed, and the amount claimable as compensation having been determined.

Extract paras. 3 to 6, of letter No. 3708, dated 3rd June 1859, from the Secretary to Government of India, to the Secretary to the Government of the Punjab.

3. The Governor General in Council is disposed to think that this matter of compensation has been too liberally dealt with at Delhi. It would appear that a large amount of compensation is assessed, liable to deduction only in the event of owners being proved to have been in rebellion.

4. At Lakhnau, as His Honor the Lieutenant Governor will recollect, a different course was followed. The demolitions were carried out there with merely an admission to the effect that all owners had not forfeited the claim to compensation, and that their claims therefore would be considered.

5. The practical effect of these courses is very different, and His Excellency in Council considers that the course followed at Lakhnau was the proper one.

6. Delhi is still half empty, and compensation, when merited, might in many instances be effected by the grant of forfeited houses.

On these points the Governor General in Council requests His Honor's views. The matter is important, as probably much additional demolition may yet be required.

Extract paras. 11 and 12 of letter No. 82, dated 13th January 1860, from Secretary to Government of India, to the Secretary to Government Punjab, Military Department.

11. His Excellency approves of the extent of demolition round the palace, and stretching to the Jama Masjid, as exhibited in the most recent and most limited scheme submitted to His Excellency by the Superintending Engineer. His Honor the Lieutenant Governor will be good enough to give the necessary instructions to the Departments concerned in this measure, and to guard against the grant of compensation where the claim cannot be made with clean hands. On this point I am to refer to a letter which was addressed to you from this office in May or June last. *

* The absence of certain records prevents a specified reference.

12. There is no need to include in the demolition small isolated temples, the retention of which could be of no serious detriment.

Extract paras. 1, 3, 4, 6 and 7, of letter No. 1707, dated 11th May 1860, from the Secretary to the Government of India, to the Secretary to the Government Punjab.

1. The Governor General has taken the opportunity of passing again through this city to make enquiry respecting the progress made in the clearance of the ground round the palace and near the Jama Masjid, and in the arrangements connected with it.

3. It appears to the Governor General that there are only two points remaining upon which it is necessary that he should give an opinion :—

1*st*.—Whether the clearances should include the Darîba, as was originally intended in the plan sanctioned by the Governor General in January last ;

2*nd*.—Whether the owners of the houses which were not confiscated by the Delhi Commission, but which were placed under attachment, and released from attachment at the close of last year, should be compensated for such of these houses as it may be necessary now to demolish.

4. On the first point, after reading Mr. Brandreth's letter of the 21st of March, and the plan which the Governor General obtained when he was here in January, His Excellency has no hesitation in directing that the demolitions should stop short of the Darîba, and that street, for the preservation of which a large part of the community are very desirous, should be spared.

6. The particular line which the clearances should take with the view of avoiding the Darîba, the Governor General would wish to be determined by the Lieutenant Governor.

7. As regards the houses which were released from attachment last year, the Governor General considers that the owners of such as may be demolished should be compensated by grants of confiscated

land or houses in other parts of the city. There appears to be no doubt whatever that the confiscated property is sufficient for this purpose; and the process by which the Commissioner proposes to effect the compensation, crediting the owners with the estimated value of their demolished houses in payment for new land or houses, will be the fairest way of doing this.

Extract paras. 5 to 7, 9 and 11, of letter No. 5, dated 21st March 1860, from the Commissioner and Superintendent of Delhi Division, to the Military Secretary to Government Punjab.

5. The estimates above given however are only intended to afford a general idea of the present market value of the houses proposed for demolition. I propose to determine the amount to be paid to each individual by another process which I shall presently describe.

6. It is regarding the attached houses that I am principally anxious for his Honor's instructions. In the Government letter it is said that no grant of compensation is to be allowed "when the claim cannot be made with clean hands;" and from previous correspondence * it appears that the Governor General thought that the matter of compensation was being too leniently dealt with at Delhi. A different course, it was said, had been followed at Lakhnau, and one that appeared more suitable. The facts, however relating to the attached houses, which are the only description of property regarding which I think any question can be raised, as to whether or not the owners are entitled to compensation, are very simple, and it seems desirable that I should bring them to His Honor's notice with a view to receiving specific instructions as to the manner in which he would wish these cases to be dealt with.

* Government letter No. 3708, dated 3rd June 1859.

7. It must not be supposed that any further enquiries can now be made as to whether the owners of houses have clean hands or not. The Special Commission sat for several months, and investigated all the cases of disloyalty regarding which any proof could be obtained. By its proceedings an immense number of persons were punished, capitally or otherwise, and property to the value of many lakhs of rupees was confiscated. No compensation is recommended in the case of property thus confiscated; but, besides such confiscations which were connected with the proof of individual guilt, the whole of the immoveable property of the Muhamadan inhabitants, the moveable having fallen to the share of the prize agents, was placed under attachment. This attachment was ordered to be removed as far back as February 1859; but, in consequence of objections raised at the time by the Military authorities, this order was not carried out until the receipt of the subsequent orders of the Government in December last. It is in regard to the owners of the houses thus freed from attachment, that I wish for instructions as to whether they are to be held entitled to compensation or not. The immoveable property in Delhi was never confiscated, as such property was, I believe, in Lakhnau, and after Her Majesty's proclamation, and after the very lenient orders of the Government published in the *Punjab Gazettes* of December 1858 and January 1859, and after the special orders of

See Punjab Government letter No. 33 dated 7th February 1859.

See Supreme Government letter No. 848 of 29th December 1859, to the address of the Secretary Government Punjab.

the Government for the release of this attached property, I do not myself see on what ground a share in the compensation can be denied to these owners.

7. But whether the owners of the attached houses are compensated or not, there will be no necessity for any portion of the compensation or clearance expenses being charged against the general revenues, if the Lieutenant Governor would prefer the adjustment being made by the sale of confiscated houses. Excluding the confiscated houses in the present statement, and also those that have been made over in compensation on account of previous demolitions, as reported in my letter of yesterday's date,*—excluding also the confiscated houses that fall within the very large railway clearance,* which is now being enquired into and will shortly be reported upon, their still remain other confiscated houses to the value estimated at Rs. 15,97,590.

* See No. 4 dated 20th March 1860.

* See your letter No. 47, dated 15th February.

11. Here are assets, His Honor will perceive, more than sufficient to meet the cost of all the demolitions that have been recommended. The way in which I should propose awarding compensation for the palace clearances out of the value of these confiscated houses, would be, to put a sufficient number of them up to auction, to give as much publicity as possible to the sale in order to secure the full market value being bid, and further to allow all the owners of the demolished houses to bid up to the estimated value of their own houses for those thus put up to auction, without requiring any payment from them to that extent. I would then determine the market value of the demolished houses by a proportional deduction from, or addition to the previously estimated values, according as the confiscated houses are sold for more or less than their estimated values.

VII.—RULES FOR TRAVELLERS ON THE WESTERN FRONTIER.

In consequence of the predatory disposition of the frontier tribes, it was found necessary to lay down certain rules for observance by travellers on the frontier. Those for the Peshawar Division were contained in the Commissioner's Circular No. 230, dated 14th November 1859, and were approved by the Lieutenant Governor in Punjab Government No. 594, dated 14th May 1860. Those for the Derajat were approved by the Lieutenant Governor in 1861, in Punjab Government letter No. 401, dated 27th May 1861, to the Commissioner.

These rules are, of course, only of local interest.

RULES FOR TRAVELLERS ON THE PESHAWAR FRONTIER.

Extract paras. 2 to 4 of a Circular No. 230, dated 14th November 1859, from Commissioner Peshawar Division, to Deputy Commissioners of the Division.

2. I would on this occasion earnestly call your attention to the rules which have been laid down regarding officers travelling on this frontier. These are in some cases (as in regard to the Kohat Pass) very explicit, but unless you insist on their being carried out, they will be neglected.

3 In all cases the objects are the same, *viz*:—

That no officer be allowed to travel on certain roads without having first reported his intention to you, that you may both satisfy yourself of the sufficiency of his escort, that the time of his proposed journey is unobjectionable, and that there is nothing which might temporarily render the road unusually dangerous.

Generally, I would prohibit all night travelling on the frontier roads.

4. If you should hear of any officer proceeding without your knowledge by any such route, it will be your duty to bring the circumstance to the notice of Government.

NOTE.—This Circular was submitted to the Government of the Punjab by Commissioner Peshawar, in his No. 35, dated 7th May 1860.

Copy of letter No. 594, dated 14th May 1860, from the Secretary to Government Punjab, to the Commissioner Peshawar.

I am directed to acknowledge your letter No. 35 of the 7th instant, and to state that the Hon'ble the Lieutenant Governor quite approves the orders issued by you on the subject of precautions to be observed by officers travelling on the frontier; but he considers it desirable that Deputy Commissioners should report to you quarterly that the prescribed orders are enforced. You are accordingly requested to direct this.

RULES FOR TRAVELLERS IN THE DERAJAT.

Copy of rules for travellers in the Derajat Division, appended to letter No. 58, dated 16th May 1861, from Commissioner Derajat, to Secretary to Government Punjab.

Persons travelling from one station to another, or proceeding to any place in the interior of the districts for sport, are directed to apply to the Deputy Commissioner or Civil Officer present for information regarding the roads or locality, and escort necessary, and they will received a certificate in the subjoined form by which they must be strictly guided.

All night travelling is prohibited except in especial cases, when the consent of the Civil and Military authorities must be obtained, who will be answerable for full precautions being taken.

Copies of this order to be suspended in Mess Rooms and Dak Bungalows.

NOTE.—The form of escort certificate above referred to is omitted.

Copy of a letter No. 401, dated 27th May 1861, from Secretary to Government Punjab, to the Commissioner Derajat Division.

Acknowledges his No. 58, dated 16th instant, and approves of the rules therein proposed for the observance of travellers on the border.

Requests that the District Officers be held responsible that the rules are not trangressed by any person in the Civil Department, and informs him that the Brigadier General Commanding the Punjab Irregular Force will be instructed to hold Commanding Officers of Military stations similarly responsible in the Military Department.

Adds that the Lieutenant Governor does not consider it expedient to authorize the publication of the rules in the Gazette, inasmuch as they would be liable to be misunderstood, and are not of general application, the matter being a local one. The Commissioner may however declare that they have been approved by His Honor.

VIII.—RULES FOR EUROPEAN TRAVELLERS VISITING KASHMIR.

The only one of these rules which appears to bear the character of law, is that prohibiting the use of certain routes absolutely, and of some others without the express permission of Government. The remainder of the rules is therefore not included in this collection.

Copy of a letter No. 857 dated 8th March 1860, from the Under Secretary to the Government of India, Foreign Department, with the Governor General, to the Secretary to Government of the Punjab.

In reply to your letter and its enclosures, No. 115, dated 28th ultimo, submitting for consideration copies of the present and proposed rules for the guidance of travellers in Kashmír, I have the honor to acquaint you that the Governor General approves of the revised rules, but desires me to observe that provision is not made therein for the route by Simlah. If Officers enter Kashmír by that route, they ought, as suggested by Major Becher, to give information to the authorities in the manner prescribed for the other authorized routes.

Rules for the guidance of Officers and other travellers visiting the dominions of His Highness Maharajah Ranbír Singh.

1.—There are four authorized routes for European visitors to Kashmír.

Roads.—First.—The principal road from the plains by Bhimbar and Rajaorí. This road, over the "Pír Panjal" range, is not open until May, and is closed by the snow at the beginning of November: it is the old Imperial route, and the stages are marked by the remains of sarais.

Number.	NAME OF STAGE.	Distance in kos.	REMARKS.
1	Bhimbar ...	...	Shelter for travellers in a small house at the encamping ground, and in a tower of the Thanah fort.
2	Sarai Saidabad ...	8	A house for travellers at the encampment.
3	Naoshera ...	7	A Barahdarí at the encamping ground in the Baolí bagh.
4	Sarai Changas ..	7	No accommodation.
5	Rajaorí (*alias* Rampur),...	8	A Barahdarí in a garden, on the left bank of the river, opposite the town.
6	Thanah Mandí ...	8	No shelter: the encamping ground is outside the "Mandí."
7	Baramgalla ...	7	This is in the territory of Rajah Motí Singh; there is shelter in a small Native sarai.
8	Poshana ...	6	This is in the territory of Rajah Motí Singh; no shelter.
9	Sarai Aliabad ...	7	Cross the Pír Panjal: indifferent shelter in the old sarai.
10	Dubjían or Hírpur ...	6	The regular stage is "Hírpur," but this is a more convenient distance; however, there is no shelter and no village or place for supplies, but at Hírpur there is a village.
11	Shupayun ...	6	Shelter in a Barahdarí at the encamping ground.
12	Ramu ...	7	No bungalow.
	Srinagar ...	9	The capital of Kashmír. There are bungalows built by the Maharajah for visitors.

2ndly.—The road from the plains by Kotli, Punch, Urí, and Baramula.

This road is open in April, but it is difficult and is not recommended.

3rdly.—The road from Marrí by Chíkar and Baramula.

4thly.—The road from Peshawar, through Hazarah, and by Muzaffarabad, Katti, and Baramula, which is comparatively easy, and open throughout the year.

[The special permission of the Punjab Government must be obtained by travellers proposing to proceed from Simlah to Kashmír across the hills]

All other roads are positively forbidden; and, in respect to the direct road from Jamú (known as the Bannihal route), the prohibition has been ordered by the Supreme Government at the special request of His Highness the Maharajah. The road branching from Rajaorí by Aknur, which is used by the Maharajah's family and troops, is also expressly prohibited.

LIST OF RULES OMITTED AS HAVING BEEN SUPERSEDED, BEING OBSOLETE, OR APPARENTLY NOT HAVING BORNE THE CHARACTER OF LAW.

Dismantling of Forts.

Government of India No. 20, dated 22nd February 1851, to the Board of Administration, conveying the orders of Government as to the disposal of forts in the Leiah Division, the same as those issued to other Commissioners, with certain exceptions stated in paras. 2 and 3.—*This appears to have been rather an act of State than of a legislative character, the only doubt arising from para. 6, which provides for the case of forts used as private residences. The instructions given have no doubt long since been carried into effect.* Similar instructions had been given after 1846 with reference to the Cis and Trans-Satlaj States. Para. 63 of the despatch No. 418, dated 31st March 1849, constituting the Punjab Board of Administration, had directed, as a measure of police, the "dismantling" of "all the forts of the country which we do not retain, whether they are held by well-disposed persons, or those who have actually committed themselves in hostility against us."

Promotion of Civilians in the Punjab.

Notification No. 5450 of the Government of India, in the *Calcutta Gazette* for 1st November 1856, at p. 1854.—*The rules prescribed, as they were within the competency of Government in its executive capacity, can hardly be regarded as law, and are only noticed here as they were included in Mr. Cust's list of rules which appear to have acquired the force of law under the Indian Councils' Act.*

Wells and groves near main roads.

Rule sanctioned by the President in Council for the grant of cultivated lands, where waste lands are not available, for the purpose of sinking wells and planting groves in the neighbourhood of main roads—Government of India No. 3246 dated 24th September 1858 to the Chief Commissioner.—*Within the competence of Government in its executive capacity.*

License Tax.

Orders of Lieutenant Governor in 1859 as to license tax, contained in Punjab Government Circulars No. 11 dated 20th October, and No. 30 dated 3rd December.—*Obsolete.*

Local Funds, Ferries, &c.

Rules for management of Local Funds; management of Ferries; formation of an Amalgamated Surplus Road Fund; and preparation of Local Fund Budgets, contained in Judicial Commissioner's Book Circulars Nos. XXXI—45, XXXII—46, XXXIII—47, and XXXIV—48, dated the 15th April 1861, approved of by the Lieutenant Governor in Secretary to Punjab Government's No. 6915, dated 13th April 1861, to the Judicial Commissioner. —*Not of the character of law.*

Press Censorship.

Punjab Government No. 405, dated 21st May 1859, to the Judicial Commissioner (*printed in Judicial Commissioner's Book Circular No. XXXIII—66 dated 2nd June* 1859,) directing a strict censorship to be exercised over the native press, and that no new native newspapers or native presses should be allowed without the express sanction of the Local Government.—*This may now be regarded as obsolete, the only rules for the regulation of printing-presses or newspapers which are now enforced, being those contained in or made under Act XXV of* 1867.

CHAPTER VI.

REGULATIONS IN FORCE IN THE PUNJAB ON THE 1ST AUGUST 1861, TO WHAT EXTENT THEN IN FORCE, AND HOW FAR SINCE REPEALED.

From the account given in the first Chapter of the introduction of our laws into the various Provinces under the Punjab Government, it will be seen that none of the Regulations are of any force in the Bhatti territory, except so far as they may have been introduced by rules made by the Governor General under Act VI of 1846; that in the Dehli territory the principles and spirit of the Regulations made before 29th May 1832* are binding so far as not repealed by subsequent Regulations or Acts applicable to that territory, and the subsequent Regulations are also applicable where the Dehli territory has not been excluded from their operation; and that in the Punjab and the Cis and Trans-Satlaj Provinces the Criminal and Revenue Regulations have been extended by reference to works founded upon them, and the Civil Regulations in force in the North Western Provinces in 1849 have also been extended, so far as they relate to matters not specially provided for by the Rules for the Administration of Civil Justice. In the case of the Criminal and Revenue Regulations, the spirit only of the Regulations appears in general to be in force under the orders introducing them. Sometimes, however, as in the orders relating to Powers, that with reference to the protection of the Salt Revenue, and those with reference to Stamps, the whole or part of a Regulation has been expressly introduced, with or without modifications. And the introduction of the Civil Regulations in force in the North Western Provinces in 1849, appears to be express, subject to the proviso, that the matter to which they relate is not otherwise specially provided for in the Rules for the Administration of Civil Justice.

The great majority of the Civil and Criminal Regulations have ceased to be applicable, in consequence of the introduction

* This should probably be limited to Regulations applicable to that portion of the North West Provinces which is known in the Regulations under the title of the Conquered Provinces.

of the Penal Code and the Criminal and Civil Procedure Codes; and as lists of these Regulations are appended to Acts X of 1861 and XVII of 1862, it has been deemed unnecessary to include them in the subjoined lists of Regulations which were in force on the 1st of August 1861.

Separate lists are given of the Criminal, Civil, and Revenue Regulations, as the terms of the orders introducing them make this the most convenient arrangement, and Regulations applying to different portions of the North Western Provinces, but relating to the same subject, are grouped together. No Regulations appear to have been in force on the 1st August 1861 which are not included in these lists, or in the Schedules annexed to Acts X of 1861 and XVII of 1862, but some are included which were repealed before that date, it being desirable to show how any Regulation, which had at any time been in force, has ceased to operate.

The repeal or modification of portions of Regulations by enactments previous to the year 1849 has, in general, not been referred to, it being understood that their introduction in no case extends to provisions which were not in force at the time it was ordered to take place.

It has not been considered necessary to draw out lists of the Regulations believed to be in force in the Dehli territory under Regulation V of 1832, or in virtue of their having been enacted subsequent to the passing of that Regulation. The lists now given apply primarily to the Punjab and the Cis and Trans-Satlaj States, but the Regulations included would in all cases apply in the Dehli territory, and sometimes to a greater extent there than in the Punjab. In regard to that territory, moreover, these lists cannot be regarded as exhaustive. As, however, Punjab law has been applied in practice throughout the Dehli territory for the last twelve years, there would be no hardship to any one if it was declared by legislative enactment to be subject to the same laws as the Punjab and the Cis-Satlaj States, and to no others. The reference to the Cis-Satlaj States, would include Acts like XIV of 1843, which has been only partially extended to the Punjab.

SCHEDULE I.—CRIMINAL REGULATIONS UNREPEALED BY ACT XVII OF 1862, WHICH APPEAR TO HAVE BEEN EXTENDED TO THE PUNJAB BY PARA. 13 OF GOVERNMENT DESPATCH No. 418 DATED 31ST MARCH 1849, (*ante p.* 15.)

Number and date of Regulation.	For what Province passed.	Subject.	Particulars of Repeal.	REMARKS.
XVII, 1795, Section 15. XXXV, 1803, Section 16.	Benares.	Concurrent jurisdiction of the Magistrates (and of the Police) of different Districts in certain cases.	Regulation XVII, 1795, Section 15, by Regulation XX, 1817, Section 2, Clause 2, and Act VIII of 1868. So much of Section 16, Regulation XXXV, 1803; as respects Police Darogahs and other Subordinate Officers of Police, by Regulation XX, 1817, Section 2, Clause 2.	
XVIII, 1793, Sections 4 to 7. XVIII, 1795. XIII, 1803.	Bengal; extended to Benares by Regulation XVIII, 1795. Benares. Ceded Provinces. *	Judicial Records, and duties of Record-keeper.		
XVII, 1795, Section 3. II, 1797, Sections 1 and 2. XXXV, 1803, Section 3, Clauses 1 and 2. IX, 1804, Section 9. XIV, 1807, Section 19. VI, 1810, Sections 1 and 2.	Benares. Do. Ceded Provinces. Conquered Provinces. Ceded and Conquered Provinces, & Benares. General.	Responsibility of land-holders for the prevention and report of crime, the apprehension of offenders, &c.	Regulation XVII, 1795, Section 3, by Act VIII of 1868; Regulation XV, 1812, except so far as it extends Section 10, Regulation I, 1811, by Act VIII of 1868.	These Regulations apply so far as not inconsistent with the local law referred to in para. 7 of the Government despatch No. 418, dated 31st March 1849.

* Extended to the Conquered Provinces by Regulation VIII, 1805, Section 17.

SCHEDULE I.—Continued.

Number and date of Regulation.	For what Province passed.	Subject.	Particulars of Repeal.	REMARKS.
I, 1811, Sec. 10 (part.)	Bengal; extended to Ceded and Conquered Provinces & Benares, by Regulation XV 1812	Responsibility of land-holders for the prevention and report of crime, the apprehension of offenders, &c.	Regulation XVII, 1795, Section 3, by Act VIII of 1868; Regulation XV, 1812, except so far as it extends Section 10, Regulation I, 1811, by Act VIII of 1868.	These Regulations apply so far as not inconsistent with the local law referred to in para 7 of the Government despatch No. 418, dated 31st March 1849.
III, 1812, Sec. 4 (part).	General.			
XV, 1812, Section 2.	Ceded & Conquered Provinces & Benares.			
VIII, 1814, Section 1, and part of Section 2.	General.			
XX, 1817, Sec 21, Cl. 10	Ditto.			
XVII, 1829, Sec. 3, Cl. 1.	Ditto.			
IV, 1796, Section 6.	General.	Duties of Assistants in the absence of the District Magistrate.	Repealed by Act VIII of 1868.	
IX, 1801, Section 5.	General.	Resistance to Criminal process.	Repealed by Act VIII of 1868.	
X, 1804.	General.	Power of the Governor General to suspend the ordinary Courts, and establish martial law, and Courts Martial for the trial of offenders taken in arms against the Government &c.		
XI, 1806, Sec. 6 to 10, and 13 to 18	General.	Duties of Magistrates as to troops on march; assistance to be rendered by the Police to travellers; application for Military guards and detachments, &c.	Rescinded so far as regards interference to procure coolies &c, by Regulation III, 1820, Section 2.	
III, 1820, Sec. 2.	Ditto.			

III, 1809. XX, 1810, except Sections 22 to 25.	General. Ditto.	Cantonments; Cantonment Police; Courts Martial; Execution of process of arrest in Cantonments, &c.	Regulations III, 1809, Sections 2 and 3, and XX, 1810, Sections 12 (part) 13 to 18 and 21, repealed by Act XXII of 1864.	Act XXII of 1864 has been extended to all Cantonments in the Punjab under the provision made in Section 40.
XVI, 1810, Sections 1 to 12, and 18.	General.	Appointment of Magistrates, Joint and Assistant Magistrates; duties and process of Assistant Magistrates; rewards to police for meritorious service in the apprehension and discovery of offender; &c.		
X, 1811, Sections 2 and 4. III, 1832, Sections 1 and 2, Clause 1.	General. Ditto.	Prohibition of traffic in slaves, &c.	Both are repealed by Act VIII of 1868.	Regulation III, 1832 applies to provinces which might thereafter become dependent upon the Presidency of Fort William.
III, 1812, Sections 9 to 11, and 13.	General.	Maintenance of Registers of proclaimed offenders, &c.; power of Zamindars to arrest the persons entered in such registers.		
XI, 1812.	General.	Removal by order of the Governor General in Council of suspicious immigrants; punishment of such persons for exciting disturbance in their original countries, and of others aiding them to do so.		
II, 1813.	General.	Breach of trust by native officers having the charge of public money.		
XIV, 1816, Sections 1 to 8 and 10. XVII, 1816, Sections 14 and 18. IV, 1833. I, 1834, Section 7.	General. Ditto. Ditto. Ditto.	Management of Jails; employment of convicts on public works, &c.	Regulation XIV, 1816, Sections 2 and 3 are repealed by Act VIII, 1868, and the remainder of these enactments by Act XXVI of 1870.	*Vide* Judicial Commissioner's Circular No. 59 of 1856, and Book Circular No. XI of 1864.

SCHEDULE I.—Continued.

Number and date of Regulation.	For what Province passed.	Subject.	Particulars of Repeal.	REMARKS.
XVII, 1816, except Section 8, Clauses 3 and 4, and Sections 14 and 18. XI, 1831, Section 8.	General. Ceded and Conquered Provinces.	Police; appointment and removal of Police and Jail Officers; powers of Superintendents of Police, (Commissioners); construction and management of public roads, bridges, &c.		
XX, 1817, (except the portions repealed by Act XVII of 1862.)	General.	Rules for the guidance of subordinate Police Officers and Village Watchmen; and concerning the aid to be rendered to the police by land-holders, &c.		*Vide* Judicial Commissioner's Circulars No. 51 and No. 60 1855.
XXII, 1816. VII, 1817.	General. Ditto.	Chaukidars of Police.	Both repealed by Act XX of 1856, Section 1.	Act XX of 1856 applies to all places when Regulation XXII of 1816 had previously been in force.
XVIII, 1817, Sections 6 and 7. III, 1827, Section 4.	General. Ditto.	Charges of corruption, extortion, or embezzlement against ministerial Native Officers of Civil and Criminal Courts.		
III, 1818.	Ditto.	Detention of State Prisoners under the orders of the Governor General in Council.		
VI, 1819.	Ditto.	Management of Ferries by Magistrates.		*Vide Punjab Gazette*, 18th August 1858, and Act VIII of 1851.

II, 1820.	General.	Prohibition of the impressment of Coolies or Begaris to carry burthens.		
XI, 1824.	General.	Deputation by Magistrates of their Assistants to make local investigations.		
XX, 1825.	General.	Procedure of Magistrates in regard to persons amenable to the jurisdiction of Military Courts Martial.		
I, 1829, Sections 7.	General.	The powers of Superintendent of Police to be exercised by Commissioners of Divisions.	...	*Vide* Regulation XVII of 1816.
XVII, 1829, Sections 1 to 3.	General.	Sati declared illegal. Duties of landholders and of Police in cases of Sati or intended Sati.		
II, 1831.	General.	Sessions trials held elsewhere than at the Station of Committing Joint Magistrate.	Repealed by Act VIII of 1868.	
XI, 1831.	Ceded and Conquered Provinces; extended to Benares by Act XVI of 1854.	Governor General in Council empowered to invest Tahsildars with the powers of Police Officers.	Sections 3 and 7 an repealed by Act XVI of 1854.	The Board of Administration in their Judicial Circular No. 33 of 1851, authorized Commissioners to invest Tahsildars with the powers described in this Regulation. *Vide* also their Judicial Circular No. 38 of 1852, laying down rules for the guidance of Tahsildars so invested.

NOTE.—None of the Criminal Regulations have been introduced, otherwise than by the despatch constituting the Board of Administration, *vide* Chapters I and II. Regulation III of 1832, however, would seem to have become applicable, independent of any extension, immediately upon annexation. It does not appear that the provisions of Regulations XLVIII, 1795, and XIX, 1803, as to loans to natives by Civil Servants; of Regulation XXI, 1814, as to the employment of creditors of Judicial Officers; and of Regulation VII, 1823, as to borrowing by Civil Servants, have ever been extended to the Punjab, unless so far as they are applicable to Civil Courts under Section XII of the Rules for the Administration of Civil Justice; but this is a matter of little importance, as the existence of the prohibitions is well known, and, in the case of Covenanted Officers, stipulations on these subjects are contained in their covenants.

The principles upon which the Regulations contained in the above list have been held to be applicable, are stated *ante*, *p*. 55.

SCHEDULE II.—REGULATIONS RELATING TO THE ADMINISTRATION OF CIVIL JUSTICE, WHICH APPEAR TO HAVE BEEN INTRODUCED INTO THE PUNJAB, OMITTING THOSE REPEALED BY ACT X OF 1861.*

No. and date of Regulation.	For what Province passed.	Subject.	Extent of introduction into the Punjab.	Particulars of Repeal.	REMARKS.
III, 1793, Sections 5 and 21.	Bengal; extended to Benares by Regulation VII, 1795, Section 11.	Jurisdiction and powers of the Civil Courts of first instance.	So far as applicable, and not otherwise specially provided for by the Rules for the Administration of Civil Justice.—(*Vide* Section XII.)	Regulation VII, 1795, Section 8, by Act VIII 1868; Regulation II, 1803, Section 8, by Act XIII 1860; the remainder of these Regulations not previously repealed, by Act VI of 1871.	Section 5 of Regulation II, 1803, (one of those repealed by Act X of 1861,) is referred to in Board of Administration's Judicial Circular No. 38 of 1852.
VII, 1795, Sections 5, 6, 8 and 11.	Benares.				
II, 1803, Sections 3, 8, 14 and 17 to 19.	Ceded Provinces.†				
IV, 1793, Sections 14, 17, 22, 24 & 25.	Bengal; extended to Benares by Regulation VIII 1795.	Trial of Civil Suits, and resistance to Civil Proces.	Ditto.	Regulation IV, 1793, Section 14, by Act VIII, 1868, and Section 17, by Act XII, 1856; Section 15 by Act VI of 1871.	
Section 15.	Extended to Benares by Regulation VII, 1832.				
VIII, 1795, Section 3 (part) and 4 to 8.	Benares.			Regulation VIII, 1795, Section 3 (part) by Regulation VII, 1832, and Act XI, 1864; remainder by Act VI of 1871.	
IX 1799 Section 3.	Bengal & Benares.				
III, 1803, Section 8, 11, 16, cl. 1 (part), and 22 to 26.	Ceded Provinces.‡			Regulation III, 1803, Section 16, Clause 1, (part) by Act XI, 1864; remainder by Act VI of 1871.	
VII 1832, Sections 8 and 9.	General.			Regulation VII 1832, Sections 8 and 9 by Act VI of 1871.	

V, 1803, Sections 13, 17, 24 to 27, 30 and 38.	Ceded Provinces.§	Procedure of Sadr Court, &c.	Ditto.		
XIII, 1793, Sections 2 and 8.	Bengal; extended to Benares by Regulation XII, 1795, Section 2.	Appointment, removal, and duties of native officers.	Ditto.—(*Vide* also Section I, Clause 10, and Section VI.)	Regulation VIII 1809, Sections 3 and 4, by Act XI 1864.	
XII, 1795, Section 2.	Benares.				
XII, 1803, Sections 2 and 11.	Ceded Provinces.‖				
V, 1804, Sections 2, 4 to 12, and 14 to 24.	General.				
VIII, 1809, Sections 2 to 4, 9, and 13.	Do.				
XVIII, 1793, Sections 1 to 9.	Bengal; extended to Benares by Regulation XVIII 1795, Section 2.	Judicial Records and duties of Record-keeper.	Ditto.—(*Vide* also Section I Clause 10.)		
XVIII, 1795, Sec. 2.	Benares.				
XIII, 1803, Sec. 1 to 9.	Ceded Provinces.¶				
XLIV, 1795.	Benares.	Inheritance of Landed Estates.	Ditto.		Never extended to the rest of the North-West Provinces, and hardly applicable to the Punjab.
XVI, 1797.	General.	Appeals to Her Majesty in Council.	Ditto.	Superseded by Act II of 1863, as regards Non-Regulation Provinces.	

* These ceased to have effect from the date of the introduction of the Civil Procedure Code, the 1st October 1866.
† Extended to the Conquered Provinces by Regulation VIII, 1805, Section 6.
‡ Ditto, Ditto, " 7.
§ Ditto, Ditto, " 10.
‖ Ditto, Ditto, " 15.
¶ Ditto, Ditto, " 17.

SCHEDULE II.—Continued.

Number and date of Regulation.	For what Province passed.	Subject.	Extent of introduction into the Punjab.	Particulars of Repeal.	REMARKS.
I, 1798. XXXIV, 1803, Section 12 to 15. XVII, 1806, Sections 7 and 8.	General. Ceded Provinces.* Benares & General.	Mortgages of the nature of Conditional Sale.—Redemption and Foreclosure.	So far as not specially provided for by Section VIII of the rules for the Administration of Civil Justice (*Vide* Section XII.)	...	The provisions of Regulation XV, 1793, (extended to Benares by Regulations I, 1798, XXXIV, 1803, and XVII, 1806), on the subject of usury seem never to have been regarded as applicable to the Punjab and are repealed by Acts XXVIII 1855 and VIII 1868.
V, 1799. III, 1803, Sections 16, Clause 2 to 7.	General. Ceded Provinces.†	Execution of wills and administration to the estates of persons dying intestate.	So far as applicable—Rules for the Administration of Civil Justice, Section XII.	Regulations V, 1799, Sections 2 and 3, and III 1803, Section 16, Clauses 2 and 3, partially repealed by Act XL, 1858, *vide* also Regulation V, 1827 (Revenue).	
I, 1800.	General.	Guardians to persons of minor land-owners holding shares in joint undivided estate.	So far as applicable—Rules for the administration Civil Justice, Sec XII.	Repealed by Act XL of 1858.	
VIII, 1805, Section 6, Clause 3.	Conquered Provinces.	Evidence necessary to support suits on bonds.	Ditto.	Repealed by Act VI of 1871.	Has never been acted on in the Punjab. The corresponding provision of Regulation III, 1793, (Section 15, extended to Benares by Regulation VII, 1795,) is repealed by Act X, 1861.

VII. 1813, Section 2.	Ceded & Conquered Provinces.	Reference of revenue and rent suit to Collectors for report.	Ditto.	Repealed by Act VIII of 1868.	
XXI. 1814.	General.	Employment of private creditors of Judicial Officers or of the relatives or dependant of such creditors.	Ditto.		
XXVI, 1814. Sec. 14.	General.	Nazir's Establishments and Talabánah.	So far as not specially provided for by Section VI of the Rules for the Administration of Civil Justice, (*Vide* Section XII.)	Repealed by Act XI of 1863.	Act XI of 1863 was passed for the North Western Provinces, but has been extended to the Punjab under the provision of Section 11.
XXVII, 1814.	Do.	Vakíls or native pleaders.	So far as not specially provided for by Section IV of the Rules for the Administration of Civil Justice (*Vide* Section XII).	Repealed by Act XX 1865, (except Section 27) which was repealed by Act X, 1861.	Act XX of 1865, has been extended to the Punjab under the provisions of Section 47.
I, 1815, Sections 3 to 6.	Ceded and Conquered Provinces.	Jurisdiction of Civil Court as to land held under Mukarrari or Istamrári grants.	So far as applicable—Rules for the Administration of Civil Justice, Section XII		
V, 1817.	General.	Hidden treasure.	Ditto.	Sections 3 and 4 repealed by Act VIII, 1868.	

* Extended to the Conquered Provinces by Regulation VIII, 1805, Section 23.
† " " " " " 7.

SCHEDULE II.—Concluded.

Number and date of Regulation.	For what Province passed.	Subject.	Extent of introduction in the Punjab.	Particulars of Repeal.	REMARKS.
VIII, 1825, Section 2 III, 1829, Section 6.	General. Ditto.	Employment by Judicial officers of their private servant in the execution of their public duty, or of public servants in their private business.	So far as applicable—Rules for the Administration of Civil Justice, Section XII.		
III, 1826.	General.	Civil jail.	Ditto (*Vide* Chief Court Circular No. XI of 1864.)	Repealed by Act XXVI 1870.	
III, 1827, Sections 3, 5 and 6.	General.	Civil remedy in case of extortion or corruption by native ministerial officers.	Ditto.	...	Repealed as regards law officers (unknown in the Punjab) by Act XI of 1864.
VIII, 1833.	General.	Appointment and powers of Additional Judges.	Ditto.	Repealed by Act VI of 1871.	

NOTE.—The regulations on the subject of Registration of Deeds are omitted, that subject being provided for in Section XI of the Rules for the Administration of Civil Justice. The Regulations themselves were never referred to in the Punjab, and were repealed by Act XX of 1864. They had been referred to in establishing offices of registry in the Cis and Trans-Satlaj States (*ante p* 202), before the introduction of the Rules for the Administration of Civil Justice. Regulation VI, 1832, Sections 1 to 3, (repealed by Act VIII of 1868,) is omitted, as no officer was specially empowered under it by the Governor General in Council.

The Regulations relating to Munsifs, Sadr Amins, and Principal Sadr Amins, are omitted, as these were not referred to in defining the powers of Civil Officers in the Punjab, though they had been referred to for this purpose in the Resolutions with reference to the administration of the Cis and Trans-Satlaj States, before the Rules for the Administration of Civil Justice were drawn up. I have added references to the repeal of Regulations by Act VI of 1871, though that Act not being applicable to the Punjab, such repeal does not affect their force here.

SCHEDULE III.—REVENUE REGULATIONS WHICH APPEAR TO HAVE BEEN INTRODUCED INTO THE PUNJAB.

Number and date of Regulation.	For what Province passed.	Subject.	Extent of introduction into the Punjab.	Particulars of Repeal.	REMARKS.
V, 1795. XXV, 1803.	Benares. Ceded Provinces.*	Duties of Collectors.	So far as in force in March 1849.	V, 1795, Section 17, and XXV, 1803, Section 18, by Act VIII, 1868.	Made applicable by Government Despatch No. 418, dated 31st March 1849, (*ante p.* 16).
VI, 1795. V, 1800. I, 1801. XXVII, 1803. VIII, 1805, Section 18, Clauses 2 and 3. V, 1808.	Benares. Ditto. Ditto. Ceded Provinces.* Ceded and Conquered Provinces. Ceded and Conquered Provinces.	Realization of Land Revenue.	So far as embodied in Directions for Collectors, and the Revenue and Rent (1840), and Miscellanous (1841), Circulars of the Board of Revenue, North Western Provinces.	...	Regulation VI, 1795, extended to Benares the Bengal Regulation XIV of 1793, and Regulations V, 1800, extended Regulations III, 1794. Sections 15 *et seq.* XII, 1796, and VII, 1799, Sections 29 to 31. *Vide* Directions to Collectors, paras. 30, 36, 47, 63, 67 to 85, 166, 279, and Appendices ix and x.
XXVI, 1803, Sections 12, 27 and 28.	Ceded Provinces.	Conduct of sales of land for arrears of revenue.	Ditto.		
LI, 1795. XXX, 1803.	Benares. Ceded Provinces.†	Rules for grant of pattahs to tenants.	So far as embodied in Directions for Settlement Officers.	...	*Vide* Directions for Settlement Officers, paras. 130, 134, 136, and 138.
XV, 1797.	Benares.	Fees on division, union, or transfer of estates.	So far as embodied in Directions for Collectors.	...	*Vide* Directions for Collectors, paras. 127, 184 and 199, and Appendix xv, also see note, *ante p.* 275.

* Extended to the Conquered Provinces by Regulation VIII, 1805, Section 18.
† Ditto ditto ditto „ 20.

SCHEDULE III.—Continued.

Number and date of Regulation.	For what Province passed.	Subject.	Extent of introduction into the Punjab.	Particulars of Repeal.	REMARKS.
XXIII, 1803.	Ceded Provinces.*	Same subject, and constitution of Revenue Record Offices.	So far as embodied in Directions for Collectors.		
XIX, 1795. VIII, 1800 XLII, 1803.	Benares. Benares. Ceded Provinces.†	Parganah Registers of lands subject to payment of revenue.	Ditto, and in Directions for Settlement Officers.	...	*Vide* Directions for Collectors, paras. 151 to 157, 187, 192, 196, 201, and Appendices XV and XX, Directions for Settlement Officers, para. 6.
II, 1802. X, 1813. XVII, 1814. VII, 1824, except Sec. 18, cl. 1 to 5, and Sec. 23 and 24.	General. Ditto. Ditto. Ditto.	Excise.	So far as embodied in Directions for Collectors.	All repealed by Act XXI 1856, except certain portions of Regulation VII 1824, not applicable to the Punjab.	*Vide* Directions for Collectors, paras. 103 and 282, and Appendix xii. Also see Financial Commissioner's Circulars No 54 of 1855, and 53 of 1856.
XXXIV, 1795. XXIV, 1803. XXII, 1806. XI, 1813. VI, 1817.	Benares. Ceded Provinces.* General. General. Ceded and Conquered Provinces.	Pensions.	Ditto and in Miscellaneous Circular (1841) of the Board of Revenue, North Western Provinces.	...	*Vide* Directions for Collectors, paras 339 to 346, and Board of Administration's Revenue Circular 69 of 1850.
XLV, 1795. XXVIII, 1803.	Benares. Ceded Provinces.‡	Distraint for arrears due by tenants.	So far as embodied in Directions for Collectors, and Directions for Settlement Officers.	...	*Vide* Directions for Collectors, paras 259, 263, 273 to 279, and Appendix xix; Directions for Settlement Officers, para. 112 Probably not acted on anywhere in the Punjab.

XXXIII, 1803.	Ceded Provinces.§	Recovery of public dues and papers, and compelling attendance of subordinate Native Revenue Offices.	So far as embodied in the Miscellaneous Circular (1841), of the Board of Revenue, North Western Provinces.	...	The demand of security from Tahsildars is discontinued by Financial Commissioner's Book Circular No. XXXVIII of 1861.
LII, 1803. VIII, 1805, Sections 29. VI, 1822.	Ceded Provinces ‖ Ceded and Conquered Provinces. Benares and General.	Court of Wards.	So far as embodied in the Revenue and Rent Circular (1840), of the Board of Revenue, North Western Provinces.	...	*Vide* Regulation I, 1829, Section 4;—powers of Court of Wards given to Commissioners.
V, 1804.	General.	Appointment and removal of native officers.	So far as embodied in Directions for Collectors.	...	*Vide* Directions for Collectors, para. 17.
IV, 1808.	Benares, Ceded and Conquered Provinces.	Appointment and duties of Kanungos.	Ditto.	...	*Vide* Directions for Collectors, paras. 18, 145, 196 and Appendix xv; also see decision of Financial Commissioner in *Punjab Record* for 1867, Revenue Judgments, p. 2.
XIX, 1810.	General.	Local agency for management of religious endowments arising out of land, of bridges, sarais, &c., and of nazul property.	Ditto, and in Miscellaneous Circular (1841), of Board of Revenue, North Western Provinces.	So much as relates to religious endowments, repealed by Act XX of 1863. As to bridges, sarais &c., *vide* Regulation XVII, 1816, Section 16.	*Vide* Directions for Collectors, para. 331.

* Extended to the Conquered Provinces by Regulation VIII, 1805, Section 17.
† Ditto ditto ditto „ 27.
‡ Ditto ditto ditto „ 19.
§ Ditto ditto ditto „ 23.
‖ Ditto ditto ditto „ 29, and to Benares, by Regulation VI, 1822, Section 2.

SCHEDULE III.—Continued.

Number and date of Regulation.	For what Province passed.	Subject.	Extent of introduction into the Punjab.	Particulars of Repeal.	REMARKS.
IX, 1811. XIX, 1814.	General. Ditto.	Perfect partitions. Regulation IX, 1811, also provides for securing the rights of sharers in undivided estates.	So far as embodied in Directions for Collectors, and for Settlement Officers, and in Revenue and Rent Circular (1840), Records and Registration Circular (1840), and Miscellaneous Circular (1841) of the Board of Revenue, North-Western Provinces.	Repealed as to the North Western Provinces by Act XIX of 1863. Perfect partitions disallowed in the Punjab by Financial Commissioner's Book Circular No. XLVIII of 1860 *(ante p. 276.)*	*Vide* Directions for Collectors, paras. 58, 164, 168, 171 to 174, 179, 183, and 293 to 296; Directions for Settlement Officers, 168, 177, and Appendix xviii. *Vide* Financial Commissioner's Circular No. 50 of 1856.
V, 1812. XVIII, 1812, Section 2.	General. Ditto.	Pattahs; right of purchasers at public sales; distress for arrears; &c.	So far as embodied in Directions for Collectors, and for Settlement Officers.	...	*Vide* Directions for Collectors, paras. 297 and 298, and for Settlement Officers, para 134.
XII, 1817.	Benares, Ceded and Conquered Provinces.	Office and duties of patwaris.	So far as embodied in Directions for Collectors.	...	*Vide* Directions for Collectors, paras. 18.
XIX, 1817, Sections 15 and 16. XIV, 1824. VIII, 1831.	General. Ditto. Ditto.	Summary Suits.	Ditto and in Directions for Settlement Officers, and Revenue and Rent Circular (1840) of the Board of Revenue, North-Western Provinces. *Vide* also Rules for the Administration of	Repealed where Act X of 1859 is in force, but this Act has not been extended to the Punjab. The other Sections of Regulation XIX, 1817, have been repealed by Regula-	See Act I of 1841, Board of Administration's Revenue Circular No. 289 of 1849 and the Examination Rules of 1854. *Vide* Directions for Collectors, Section 4, and paras. 67

			Civil Justice, Section IX.	tion V of 1831, Act I of 1846, and Act X of 1861. Superseded as to the Punjab by Act XIX of 1865.	and 144; Directions for Settlement Officers, para. 128.
VII, 1822. IX, 1824. IX. 1825. IV, 1828, Section 2. clause 4. IX. 1833.	Ceded and Conquered Provinces.* Ditto. General. Ditto. Ditto.	Settlements, and decision of judicial questions by Revenue Officers.	So far as embodied in Directions to Collectors and Directions to Settlement Officers, and in the Four Circulars of the Board of Revenue, North Western Provinces, (1839 to 1841.)	Section 23, Clause 3, of Regulation VII, 1822, modified by Act VIII, 1835, Section 1; Section 25 and Regulation IX, 1825, Section 5, part of Clause 9, repealed by Act XX of 1865; IX. 1824, except Section 4, repealed by Act VIII, 1868.	Regulation VII, 1822, Section 22, extends Sections 18 and 19 of the Regulation VIII, 1819, passed for Bengal. *Vide* Financial Commissioner's Circular No. 57 of 1856, and Book Circulars No. XX and No. XXII of 1858. *Vide* Directions for Collectors, paras. 16, 52, 67, 147, 152, 177, 241, 242, 252, 263, 264, 273, 323, and Appendices viii, x, xxv, and xxix; Directions for Settlement Officers, paras. 9, 13, 37, 59, 77, 84 to 88, 93, 98, 103, 110, 116 to 118, 128, 129, 142, 148, 152 to 156, 169, and Appendices xviii and xix.
XI, 1822, Sections 36 and 38.	General.	Sales for arrears of revenue.	So far as embodied in the Revenue and Rent Circular (1840.) of the Board of Revenue, North Western Provinces.	The rest of the Regulation was repealed by Act XII 1841, applying to Bengal.	

Extended to Bengal and Benares by Regulations IX, 1825, Section 2.

SCHEDULE III —Concluded

Number and date of Regulation	For what Province passed	Subject	Extent of introduction into the Punjab	Particulars of Repeal	REMARKS
I 1824	General	Land taken up for public purposes.	So far as embodied in Directions to Collectors, and in Miscellaneous Circular (1841) of the Board of Revenue, North Western Provinces	Section 1 to 7 repealed by Act VI of 1857, and the remainder by Act VIII of 1868	*Vide* Directions to Collectors para 215, and Appendix XXIII
VII 1825	General	Duties of Collectors in the sale of land in execution of legal process.	So far as embodied in Directions to Collectors, and in Rent and Revenue Circular (1840), Records and Registration Circular (1840), and Miscellaneous Circular (1841), of the Board of Revenue North Western Provinces	Repealed by Act X of 1861	*Vide* Directions to Collectors, paras 294 and 307, and Appendix XXVII.
XI, 1825	General	Diluvion.	The whole Regulation [*It would be absurd to describe a Regulation like this, dealing with general principles, as applying only in spirit*]		*Vide* Directions to Collectors Appendix XXII, and Revenue and Rent Circular (1840) of the Board of Revenue, North Western Provinces, see also Board of Administration's Circular No 52 of 1850, and Financial Commissioner's Book Circular No XLII of 1860, *(ante, p 258)*

II, 1826, Section 4.	Ceded Provinces.	Settlement of estates let to farm or held kham. Exclusion of zamindars reducing cultivation.	So far as embodied in Settlement Circular (1839) of the Board of Administration, para. 104.	Repealed by Act VIII of 1868.	
V, 1827.	General.	Management by Collectors of estates under attachment by Civil process.	So far as embodied in Directions to Collectors.	...	*Vide* Directions to Collectors, paras. 297 and 298.
I, 1829, Section 4.	General.	Powers of Commissioners of Divisions, those of the Revenue Board, and Court of Wards, *vide* Regulations V, 1795, V, 1800, Section 27, (and III, 1794, Section 15, VII, 1799, Section 30) I, 1801, XXV, 1803, III, 1822, Section 5, VI, 1822, and LII, 1803.	The entire Section, except as regards subordination to the Board of Revenue at the Presidency, (*Vide* Regulation X of 1831.)	...	Government Despatch No. 418, dated 31st March 1849, *(ante p. 16)*.
X, 1829.	General.	Stamps.	So far as introduced by Government Despatch No. 72, dated 23rd May 1849, *(ante p. 203.)*	Repealed by Act XXXVI of 1860.	*Vide* Board of Administration's Judicial Circular No. 23 of 1851, and Revenue Circulars No. 289 of 1849, and 30 of 1851.
XI, 1806, Sections 1 to 5, and 7. VI, 1825.	General. Ditto.	Provision of supplies for troops on march, and compensation for injuries committed by them.	So far as embodied in Directions to Collectors.	...	*Vide ante p. 382.*

NOTE.—The general principles upon which this list has been framed, are explained *ante, p. 210*. Regulations on subjects not noticed in the Directions for Settlement Officers, in the Directions for Collectors, or in the Four Circulars of the Board of Revenue, North Western Provinces (1839 to 1841), are accordingly omitted, unless expressly extended to the Punjab: for example, the Regulations relating to the investigation and registration of revenue-free (Lakhiraj) tenures are omitted, though the spirit of these was of course applicable in the Delhi territory under Regulation V of 1832. Regulations XLVIII, 1795, and XIX, 1803, forbidding covenanted Civil Servants to lend to natives are omitted on the same ground. Also Regulation XIV, 1812, as to Leases.

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